

Smith County

JUSTICE



David Ellsworth

(FRONT FLAP)

•"I was amazed after reading portions of Smith County Justice that so many of the events were described exactly as they happened even down to the things that were said ... even though David Ellsworth was never there when they happened. I don't know how he does it, but I do know that this book tells the story of the drug bust just the way it happened."

J.B. Smith
Sheriff
Smith County, Texas

•"I know that the people of Smith County still look at me as a low-life drug dealer who shot Creig Matthews. There's been many times when I wanted to get on some rooftop and shout the truth out to them. Now, this book does it for me. Smith County justice tells the story the way it happened to me. For those who choose not to believe it, I can only remind them that next time it could happen to them."

Kenneth Andrew Bora

•"Thank God someone has finally gotten the guts to tell this story. No matter how it makes people look in it, that's the way it was. We'd all like to change it and the way we were, but we can't change things any more than the City of Tyler and its police can change the things they did to people like us."

Cherie Paro

•"Ellsworth is the most cold blooded person I've come across in a long time."

Creig Matthews

•"Anyone who would write a book like this while still living in Smith County has to be crazy."

Kim Ramsey

(BACK FLAP)

•"I don't know how anyone could have crowded more in so few pages."

Warren Heagy Attorney

•"I lived through the entire mess of Smith County's drug bust and know what really went on there. This book tells it as accurately as I could ever have wished."

Mike Lusk

**Former Tyler Police Department
Vice Officer**

•"If it didn't take a lot of courage to write this book, it would have been done a long time ago. I'm happy the story's being told."

Ronnie Scott

**Former Tyler Police Department
Lieutenant**

•"This book will blow the lid off of Smith County."

**Carol Blakesly
20-20**

David Ellsworth is known throughout Texas as a hard-hitting author/journalist willing to tackle any issue in his pursuit of truth. His work has been honored by commendations from the White House and praised by the Governor of Texas. Dr. John Spurgeon, former professor of Political Science at the University of Texas, hailed Ellsworth as "the butcher of sacred cows."

ABOUT THIS EDITION

It is only when the people know the true behavior of a government that they can meaningfully choose to support or oppose that behavior. And so, there can be no true democracy without open government and a free press. Historically, a free press has only existed where publication and revelation, even anonymously, are protected and not controlled by those within government. But even in governments that supposedly offer such protections, those protections are often withdrawn under political pressure.

The non-fiction book *Smith County Justice* was written as an exposé of governmental corruption in the East Texas town of Tyler, the county seat of Smith County. Its publication sent shock waves through the political machine of the city of Tyler which then devised a plan for damage control. Shortly after its publication great pressure was brought upon the publisher to remove the book from circulation. All unsold copies in bookstores were ordered returned to the publisher and burned. Just exactly what threats were made against the publisher has been a subject of much speculation but there have been numerous examples of those who crossed the power elite in Tyler going to prison on trumped-up charges, being shot by the police, or in some cases simply disappearing (a few examples are given in the book). Considering the fact that Smith County courts can issue arrest warrants and request extraditions, it becomes apparent that even being out of state could not protect a publisher or author from trumped up charges in a vindictive legal system bent on revenge.

So where is the book today? It is still being suppressed. For example, the book is not available in the libraries of the very city where it would be expected to be of the most interest. Both the Tyler Public Library and the Tyler Junior College Academic Library have pulled the book from their shelves.

The guilty authorities in Smith County have never acknowledged the evil of their ways or expressed remorse for the lives they ruined. Instead, legal and public relations firms have been engaged to mount a campaign to watch the used book markets for any used copies that might appear. Whenever such copies are found they are usually bought at whatever price is required and destroyed. As a result, used copies today have become rare and expensive. Eventually, almost all original printed editions can be expected to disappear.

But now there's another problem for the city of Tyler: The Internet. Again, law firms have been employed in a whitewashing effort whereby they troll on-line sources and attempt to eliminate references to the book. They have been especially vigilant in policing Wikipedia articles about Tyler and Smith County where they usually delete references to the book in a matter of hours (or even minutes in some cases).

And that's where this electronic edition, published outside the US, comes into play.

It is our hope that this electronic edition will continue to live on despite the efforts of certain corrupt individuals in Tyler and Smith County who want to eradicate it. The good citizens of Tyler and Smith County can help to cleanse their consciences of the sins committed in their name by actively distributing copies of this electronic edition of the book. The many victims of the Smith County Justice System deserve your help and remembrance.

Spread the word.

Spread the book.

Good citizenship requires it.

Copyright Issues

This electronic edition has been published outside the US. However, since we expect it to be of interest to persons in the US, we present the following information.

We believe that it is legal to copy and distribute this book in the US under “fair use” considering the following factors:

1. It is a factual, not fictional work. Facts themselves cannot be copyrighted and so factual works receive less copyright protection than fanciful works. US courts have ruled, for example, that telephone books cannot be copyrighted because they are primarily factual in nature.
2. The publisher and author no longer offer a version for sale, and so this edition does not act as a substitute for purchasing a paper copy from them. They suffer no financial harm.
3. The original printed edition contained no copyright notice. Although such notice is not absolutely required under US law, its absence greatly reduces copyright protection.
4. The purpose and character of this edition is noncommercial and for nonprofit educational use.

But remember, even if it is legal to copy this book under US law, the legal system can still be used by those with the power to wield it to exact revenge upon those doing so. Many of the authorities responsible for the things described in this book are alive and well in Tyler and Smith County today and would gladly give a repeat performance if given the chance. Just because you are innocent, does not mean you can't be sued or taken to jail anyway (as described in this book). Anyone distributing this book should be discreet and careful to protect themselves from such retribution.

And of course, if you live in another country you should follow your own local laws.

Some differences between the electronic and printed editions.

The layout and page numbering of the original printed edition, including the lack of any copyright notice, have been retained as much as possible in this electronic version with the following exceptions:

1. The addition of the “About This Edition” section.
2. Some typographical errors have been corrected.
3. PDF features such as bookmarks and hot-links have been added. (Which required the addition of chapter numbers)
4. Four unnumbered pages of photographs from the middle of the book have been omitted to reduce the size of this file. These photo pages, none of which depict the main characters, are available in a separate file.
5. Having not been created from the original sources, new errors have almost certainly been introduced into this edition by the scanning and conversion process.

As a result of forcing page numbers and breaks to coincide with the printed version, pages are not as uniform in length as they might otherwise have been. However, for purposes of scholarly research we thought it important to preserve the original page numbering to facilitate creating citations which would accurately reference both the printed and electronic editions.

It's also worth mentioning that the 1991 Hollywood action-drama movie *Rush*, released six years after *Smith County Justice*, was based on a fiction written by one of the ex-narcs which depicts its female narc character much more favorably than the real-life narc in the book. *Rush* is not a “movie version” of the non-fiction book *Smith County Justice*.

And now, on with the book...

SMITH COUNTY JUSTICE

DAVID ELLSWORTH

The language and descriptions contained in this book do not reflect the personal views or attitudes of the author, and are used solely for the purpose of authenticity.

None of the names contained in this narrative have been changed as there were not enough innocents to protect.

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Other Books By David Ellsworth

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The Aftermath Earth

IN APPRECIATION

**A special note of gratitude is owed to
Mr. Kyle Hathcox who accompanied me
through many weary hours of
interviews and fact-seeking missions.
Without his interest and encouragement,
this book would have been much more
difficult and a lot less fun to complete.**

Dedication

I dedicate this book to my wife, Carol, whose courage and steadfast belief in me enhanced this effort greatly. At the same time, however, I dedicate this book in a secondary sense to all those who created the tragedy of Tyler, who conspired and manipulated to create the events that were to paint the darkest chapter in the city's history. The same distorted sense of Texas justice has permitted them to remain free men, but I dedicate to their days the encroaching shadow of truth that darkens their conscience and forewarns a pending retribution. It is a secondary dedication, for they are secondary people, made lower by their acts and profane motives.

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"Tyler has a highway that encircles the city, called Loop 323. I remember that on the day I left Tyler, I was driving to Dallas thinking of everything that had happened to me in Smith County. I found myself hoping that someday that circular highway would look like a target to some Russian bomber."

*A drug defendant interviewed
in December, 1983*

FOREWORD

Beneath the expanse of the continental United States, bordering on the Rio Grande and the bawdy cities of Mexico, rests Texas. It is here that justice has a strange translation that would be humorous if it did not produce such tragic implications. It was in Texas that a San Antonio man was found hanging with his hands tied behind his back. The coroner summarily ruled the death as a suicide. When his findings were questioned by the stark logic that a victim would have difficulty hanging himself with his hands tied behind his back, the case was presented to the grand jury. Incredibly, the grand jury concurred that the death had been, indeed, a suicide.

In 1979, a man was found in a roadside ditch with two bullet holes in his head. Again, the official ruling was suicide, a decision that stands to this day.

Texas is a state where convicted felons are not sent to prison as punishment, rather, for punishment. In the prison system that has its satellite facilities sprawling forth from Huntsville, inmate trustees serve in the positions of pseudo guards and the vicious skills of tracking hounds are honed by turning them loose on the rebellious, unruly inmates for practice. Prisoners harvest massive crops of cotton, guarded by custodians on horseback with their mounts trained to bite inmates upon silent

command. A large percentage of these inmates serve sentences for drug offenses, detected and convicted on the evidence gained by undercover agents commonly known as "narcs." Yet, in the admission of a prominent narc who operated in Texas for many years, a conservative estimate of at least one-third of all these men should not be in prison at all. These are the victims of the narc practices of entrapment, stashes (the planting of narcotics on an innocent person or the filing of a false report detailing a drug deal that, in reality, never took place) or perjured testimony. The narc further confesses that the vast majority of all narcs should be behind bars themselves, for the truth is that few, if any, narcs have ever been "clean." It is these select individuals (the narcs) who enter the sewer world of drug dealers and users and join their culture with an unusual zeal. They use and sell drugs with their counterfeited peers and then, almost magically, one day shave, get a hair cut, pull on a three-piece suit and testify in court that they have been the guardians of the public welfare and have legitimately formed valid cases against the defendants sitting in shock before them. As a tragic result, the defendants are sentenced to the Texas Department of Corrections, teaming the final truth of Walter Winchell's observation that, "The scourge of the earth is in prison, and the scum of the earth is guarding them."

If the corruption of the justice systems is extended into the methods of gaining evidence and the subsequent penalties of incarceration, it is apparent that it can also be found within the hallowed halls of municipal police departments and county sheriffs offices. The search for evidence of this state is not difficult.

In Mexia, Texas, sheriffs deputies handcuffed a small group of black youths celebrating June 'Teenth' (the unofficial holiday commemorating the liberation of the slaves) charging them with drunkenness and placed them in a boat to transport them back to the shore from the small island in Lake Mexia where the party had been held. Once upon the waters, the boat began to sink. The deputies saved themselves by swimming safely to shore while the handcuffed youths drowned beneath the murky waters. All of the deputies were exonerated of wrong-doing.

In Dallas, a police officer's service revolver accidentally fired while it was being held at the temple of a 14-year-old Chicano. The officer was attempting to gain a confession from the youth at the time of the "mishap."

In Houston, a young man was shot down by police and a "throw down" gun was placed beside the body. The officers claimed self defense. In North Central Texas, bail bondsmen transported a woman to Oklahoma where she was coerced into a variety of sex acts rather than have the bondsmen revoke her bond, returning her to jail.

Newspapers are permitted within the ugly walls of Huntsville. Inmates read of such events and shake their heads, recalling the details of their own ordeals. They find it difficult to equate their own plight to the news that Tarrant County millionaire Cullen Davis has been acquitted of murder and the conspiracy to murder a district judge in two separate counts. They nod knowingly with the revelation that Davis is the first man in national history to have more money to spend on his defense than the state possessed in the effort to prosecute him. They recall the executive pardon of Patty Hearst and the select immunities granted to Richard Nixon and his host of collaborators who founded fortunes on the lecture circuit and in writing best-selling books dealing with their illegal escapades.

It is small wonder that justice in Texas has been referred to as "the circus of American jurisprudence." They recall the case of Lenell Geter, the black engineer who was convicted of robbing a Kentucky Fried Chicken facility and was sentenced to Huntsville. Only an expose by television's prestigious "60 Minutes" informed the populace that Geter's co-workers had seen him on the job at the exact time the robbery was taking place miles away. He was subsequently released from prison and the charge was dismissed after a national outcry forced the hand of the Dallas District Attorney. To many, his release symbolized the effectiveness of the justice system within Texas. Yet, it does not require an expert to reason that if a murder had taken place in the course of that robbery, Geter could have been executed and the justice system would have remained forever silent thereafter, even if it had learned the wrong man had received the lethal injection. Geter never even received an apology, but was granted a lifetime pass for free fried chicken from the management of the Kentucky Fried Chicken chain.

A young laborer in Irving, Texas, was indicted on no less than twelve counts of indecent exposure. It took over a year and a half for the work of a courageous attorney to reveal that the real culprit was someone re-

sembling the accused, living nearby the scene of the chain of exposures, and was a man already charged with indecent exposure. The attorney was knowledgeable enough of the system to know that he could not reveal his findings prior to the actual trial, for the district attorney would merely counter his claims with evidence condemning his client, however fraudulent, but damning. Waiting for the right moment, the attorney presented the evidence and his client was eventually released from all charges.

Within the sanctuaries of the district attorney's offices the quest for convictions often supersedes the pursuit of justice. Even when the preponderance of fact reveals the innocence of a defendant, the district attorney, as often as not, refuses to concede to the 'evidence, charging that real justice has been circumvented by the creation of "reasonable doubt." The district attorneys become the "popes of the bar," infallible and without the inherent ability to err.

To what lengths law enforcement will go to gain an arrest is often equal to the extremes taken by district attorneys to gain a conviction. The combination forms no less than a true conspiracy. The philosophy is overwhelming, concluding that, "We know the man's guilty as hell, so let's get him any way we can." The prescribed procedures designed for the protection of all is detoured in the name of the public welfare.

Strangely, law enforcement is hesitant to pursue a case once their prime suspect has been cleared of the charge. From that point on, it typically gathers dust as testimony to the unfading belief that the real culprit was apprehended, but eluded justice. As a damning indictment to their adamant posture, the case remains on the roster of those categorized as "unsolved". Once there, officials do not want the skeletons of such cases to ever be resurrected by some inquiring author. Such literary rabble-rousers rank, in their estimations, as Public Enemy Number Two.

In the course of interviewing hundreds of people in the preparation of this work, the comment was frequently made, "I don't understand why someone hasn't written this book before now."

The truth is that there were attempts to write this book by skilled writers with the honorable intent of seeking the truth. They went about their business diligently, assembling data with the cool analytical processes typical of their craft. Their philosophy was constant, they didn't want to

harm anyone, but they wanted to learn the truth. That, in itself, was threatening to some. Soon, they were receiving midnight calls informing them that writing can be dangerous to one's health. Their wives received nocturnal calls telling them to buy a nice, black dress. Before long, it became apparent to them that the noble intent of the book was not equal to the obvious risks. It was evident that a pocket of power remained that did not want the truth known. Tyler, after all, is the product of Texas, and the concept of justice is as distorted and mangled as it is throughout the remainder of the state's boundaries. The prime difference in Smith County may well be that the corruption of justice is blended with an inherent ignorance that makes the actions of anyone with a title acceptable to the public-at-large.

In the course of researching and writing this book, I was contacted by a whispering man who telephoned asking me to purchase a funeral plan. With irritation, I informed him that I already had plans and plots and my demise was well prepared. "You already have a burial plot?" he replied. "That's good, because you'll be needing it very soon." With a click, only the dial tone remained.

In another call, a voice (unlike the first) identified itself only as belonging to a local minister. In a tirade, the man informed me that in writing *Smith County Justice*, I would be doing the City of Tyler irrevocable harm. He charged that I had absolutely no regard for all that was good and coldly informed me that God has forgiven Tyler for everything that has happened in its past. "Preacher," I finally replied, "if God has forgiven Tyler, then He owes Sodom and Gomorrah an apology." He, too, hung up on me.

A former City Attorney discussed the pending book with me and spent considerable time outlining how there had been no stashes, no perjuries, no manipulation of fact within the drug investigation of 1978. His posture was simple. The principals in the case had been bribed to change their stories and everyone else in the case were subsequent victims. The officials involved in the matter remained the perpetual "good guys" while the remaining characters in Tyler's tragedy were guilty, but exonerated by the treachery of money-hungry narcs. My reply was confined to an angry, "Bullshit."

A good writer can always gage when he nears the truth. Collective

silence is a signal that he is far away from the facts, but a concerted effort to deter his work is a sound indication that he is on track and moving in the right direction. He finds himself mentally repeating the words of Franklin Roosevelt frequently, "We have nothing to fear but fear itself." To tell the truth, my fear scared the hell out of me.

I was frightened when my auto was broken into and a note pad taken with a few scribbles of little consequence. I was frightened to find on the windshield an ad torn from a magazine advertising a brand name cigarette. At the bottom of the ad was the typical announcement, "Smoking may be hazardous to your health." The person leaving the ad had marked out "smoking" and had written in "writing." Yes, in Tyler, writing may be hazardous to one's health.

"You want to watch your step up there in Tyler," warned Mike Lusk, the former supervisor of the Tyler Police Department's Vice Division. "You're writing this book in Tyler?" gasped Kim Ramsey, the former narc, "you've got to be crazy!" Her narc partner, Creig Matthews, cautioned, "Tape the doors and the hood of your car and check them whenever you get in it. Never take the same route twice." These people had operated in the gut of the Tyler Police Department and knew the character of some of its personnel. They expressed a real concern about this effort and their warnings served as guideposts to my every movement.

It is, I suppose, in the nature of man to pursue the truth. But to have that pursuit complicated by efforts to disguise it or to thwart the effort gives added incentive to the quest. Yet, I was resolved to complete this work, doing so in Tyler, fully visible, and to pursue my work with honor. I believe in the honor of man.

There have been those less threatening who held the opinion that Tyler should have the right to close the door on this unfortunate page of its history without having the entire episode exhumed for popular scrutiny. To some degree, I concur with them. But when Tyler does close the door on this segment of its past, let it be closed with the sound of truth, not the eternal doubt and suspicion that has existed over the years.

Smith County Justice is the chronicle of but a few days within the history of a beautiful land. If its content appears to be an indictment against a time and place within that history, so be it. The scribe does not create history, but preserves it.. Generations yet unborn are deserving of the

lessons to be learned here. If these lessons are not palatable to the current tastes, then it is a bitter pill prescribed by public apathy and a general disregard for common awareness. The greater service would be to insure all generations that the events related herein will never happen again.

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*"And judgment is turned away backward,
and justice standeth afar off; for truth is
fallen in the street, and equity cannot
enter."*

(Isaiah 59:14)

THE MAN AND THE PLACE

For nearly two hours he had driven eastward on Interstate 20 at 55 miles an hour. He would not drive faster, for it was a testimonial to his new standards - the turning of a new leaf. The law was the law, and there was nothing more to be said. It had to be this way in everything now, even in complying with the speed law on a highway void of traffic, winding through the autumn hills of East Texas. If he was to change his life, it would have to begin with little things. Little things like a speed law. God knows, he thought, this might be the last chance.

A mileage sign drifted into view and he smiled. Tyler, 9. His grin was a crooked, small expression of unusual irony. In the trunk and back seat of his vehicle were all his worldly possessions. His entire worth could be placed in the back of an average auto with room to spare. Clothing, a smattering of personal papers and photos, toilet articles, a portable television, a stereo with bad tubes, and a revolver fitted neatly into a short holster. After thirty-two years, two marriages and a list of experiences he could never truly relate, he could itemize his entire substance by glancing toward the back seat of his auto. It was a sobering thought and he dismissed it quickly, for it was not a time to dwell upon such negative matters. The moment called for something brighter, more elevating to the spirit. Now, it was but nine miles to a new future, an opportunity to erase the specter of the past and a chance to re-establish himself. It seemed but a small distance, but it was, he knew, a journey of immense proportions. Without thinking, he wheeled the car onto the asphalt drive leading down the steep hill into a roadside park. Braking to a halt, he took a

moment to notice that the terrain was still and pleasant with only the rustling of the August breeze and the melody of a bird interrupting the silence. Occasionally, an auto would pass by the park, heading toward Tyler on Texas State Highway 64, but that was the only sound to disturb the stillness and he was grateful that he had left the interstate to take the shortcut on Highway 64 and thankful for whatever force had led him to pause within the park. More than anything else, he needed a moment to relax, to reflect, and to take inventory of the days before him. He rubbed his eyes and released a deep sigh before adjusting the rear view mirror to examine his face. He was a handsome man. He knew that. Providence had been good to him somehow, causing time to stand still. At thirty-two, he could easily pass for a man in his mid-twenties. He ran his fingers lightly through his hair and smiled with the observation. He would need a youthful appearance and by damn, he had one. Turning the handle, he swung his legs from the auto and stepped into the fresh morning air.

Beyond the picnic tables stood the tree. The gnarled oak so ancient that it had stood there long before the arrival of the white man into the region. The broad-based oak with the twisted roots in visual agony above the surface of the earth. He walked beneath the canopy of the trees and enjoyed its protective shield from the intense sun. Luxuriously, he slumped to the soft grass and leaned against the rough bark of the tree, closing his eyes and feeling the light breeze touch his face. It was a good moment, the kind he never seemed to have time for any more. The kind he used to know when he was but a boy in Grand Falls, Texas. The thought came easily - pleasantly - Grand Falls, Texas. There was brother Hollis; stem, serious Hollis with an eye fixed upon reality at any cost. And there was sister - lovely, vivacious sister whose memory always resurrected the echo of his mother's voice - "She was just so perfect in every way, I couldn't name her anything else but Treasure." Sister' Treasure - Treasure Matthews. There had always been the adolescent jokes about her name ("When you die, you'll be a buried Treasure!" "I sure would like to make a Treasure.") but even he had to admit that she was a pleasant person, indeed, and perhaps altogether deserving of the name. As for him, the name Benjamin had not been suitable. He had been called Ben for a while, until he was old enough to demand the use of his middle name, Creig. Ben had always conjured up images of a clock in London or

television's "Gentle Ben." He had certainly not grown to be gentle. When he had grown old enough and large enough to enforce his will, he had altered his identity to simple Creig - Creig Matthews. The scenario of his days of youth were tranquil to his spirit and he kept his eyes closed, leaning against the tree, and surrendered to the dark curtain of sleep.

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Long scars were visible on the bark of the tree. The great brown bear had paused there upon many occasions to sharpen his claws. The slow, plodding bear who was the favorite of nature. A lover of honey, protesting bees could not sting through his hide. A natural fisher, the bear took from the serpentine rivers and gorged within the tangled berry bushes. Both carnivorous and vegetarian, his diet was unrestricted, thus plentiful in supply. While all of nature suffered through the hardship of winter, the bear slept in dark caves while his mate painlessly gave birth to cubs while yet in slumber. Yes, God had created the great beast with merciful exemptions, and life for the bear was good and easy.

The land beyond the tree rested in lush splendor, sprawling southward from the easy-flowing Sabine River. It had been the home of the Kickapoo, Delaware, a small group of Seminoles and the mighty Cherokee. In 1819, the Cherokee had made their encampments in the forests of the Arkansas Ozarks, but a mighty earthquake had led them to believe that the Great Spirit had spoken, instructing them to move westward where the land rested in a network of meadows, woods, and rivers where life had been made easy for the great bear. As white settlers began to invade the meadows and the sound of their axes echoed across the woodlands, the Cherokee became accustomed to the sight of the receding forests and the new, uniform rows of crops that redesigned the horizons. The alteration of the earth troubled them deeply, but the Indian was in the process of learning valuable lessons, the greatest being the art of dealing with the white man and coming to understand his ways. The tribal leaders had learned that the land called Tejas was ruled by the government of Mexico, a nation they knew to be far to the south where the buffalo moved when their coats became heavy with the promise of winter. After long debate, it was decided that the eloquent Chief Fields would journey to Mexico and

seek title to the land that was now the domain of the Cherokee Nation. His effort was not altogether a failure, for he returned with a guarantee from the Mexican Government that could have been equated as "squatters rights." It was the hope of Chief Fields that the agreement would be formalized in writing, but the Mexicans were not willing to commit themselves and the Indians wanted to believe that there was honor in the Mexicans' word and that they might always cherish the East Texas hills they now called home.

It was now 1822 and the Cherokee continued to live upon the land, finding the game plentiful and the fish of the tributaries fat and hungry. They loved the land and felt secure upon it, mindless of the events beyond the forests that included the tragedy of the Alamo and the inspirational victory at San Jacinto. The world beyond the deep forests was changing, but it was difficult to recognize when the white-tailed deer walked the same paths as always before and the screaming hawk circled again against the drifts of clouds. Life was constant for the Indian, and he found particular pleasure in the belief that the troubles of the white man no longer touched the destiny of the tribal spirit.

The tribal leaders were not so immune from the events of the land as were their fellow tribesmen. They came to learn that Texas had gained independence and reasoned that perhaps the hostility between the new Texans and the Mexicans might cause the new government of the Republic to not honor the old agreement reached in Mexico. Again, the diplomacy of the Cherokee was exercised and a delegation met with representatives of the new government in Columbia, Texas, and an accord was reached wherein the Indians would be granted a territory marked as north of the Old San Antonio Road and encompassing the regions between the basins of the Sabine, Neches and Angelina Rivers. As was the white man's method, the agreement would only have to be approved by the Senate of the Republic, and that seemed but a formality - or so the Indians were told.

News traveled slowly and many months passed before the Cherokee discovered that the Senate of the Republic of Texas had refused to ratify the pact granting them the land where they had lived for fifteen years. Surely, it would not be so, they reasoned, and with their typical patience they allowed the seasons to pass in the belief that the error would be cor-

rected and the honor of the white man would be restored with a reversal of the decision. It was inherently inconceivable to the mind of the Indian that anyone could "own" portions of the Mother Earth. It was the domain of all, man and beast alike, without restriction or limit. Yet, the white man had come among them with the concept that the land could indeed be so possessed with exclusive rights and it appeared that only white men could possess title to that which had always been free to the red man to enjoy. By 1838, the patience of the young rebels within the tribe had reached its limit and the spiral of smoke upon the hilly horizon spoke of their wrath against the treachery of all whites. Chief Bowles, the leader of the Cherokees in East Texas, had adapted well to the ways of the white man, so much so that he was a partner in a salt mining operation with a local physician. But the old ways die hard and the rebellious nature of the young warriors slowly eroded the chief's power and nocturnal raids were frequent upon the settlers near the fringes of the forest. With the precision learned by their ancient arts, the young Cherokees struck and retreated, leaving ashes and embers to scar the terrain. Pioneer farmers whittled slits in the doors of their cabins where they maintained a sentry watch by night and day, always fearful that they, too, would fall prey to the vengeance of the Cherokee.

In 1838, at a site about 40 miles south of the old oak, three families were attacked by the screaming renegades. Eighteen members of the Killough, Wood and Williams families were massacred in the region where Mt. Selman, Texas now stands. Settlers throughout the region formed loose alliances of mutual defense, and issued a plea to the Congress of the Republic of Texas for governmental aid in their struggle for survival in the wilderness of northeast Texas. In the following year, Colonel Thomas J. Rusk led a detachment of the Texas Army through the hills northward along the banks of an unnamed creek to the place where the giant oak stood. It would be a good landmark, he determined, and with water and a terrain given to adequate vigilance, it was a good campsite. To the south, in the area where Teasleville, Texas is now located, Rusk had encountered the Cherokee and driven them northward in hasty retreat. He had been given his orders by Congress. He would drive the Cherokee and other rebellious tribes from the land forever. He was, after all, a soldier, and his only conscience was in the obedience to

his commands.

Chief Bowles had not worried about the attitude of the white man in those early days when it was first learned that the agreement to concede the land to the Indian would not be honored. He recalled the old days when they had dwelled in the deep forests of the Ozarks and a white man had lived among them, blending well with their ways and customs. His name had been Sam Houston. Now, Houston was powerful among the leaders of the new nation and certainly old alliances, such as theirs, could not be easily forgotten. The man called Houston had been a man of honor, he remembered, so he was filled with deep confidence that all would be well with them.

It had not mattered to the settlers that the attacks had been conducted by small bands of youthful warriors. Now, organizing in companies under unauthorized commands, the farmers took up their weapons and attacked the Indians at will. They could not wait for the soldiers who would come later under the command of Colonel Rusk. With surprising skill; the white man crept through the forest and often surprised the Indian camps, killing indiscriminately, as if for sport. Even Chief Bowles, the leader ardently attempting to blend the ways of the Indian and the white man, was now forced to take up arms in defense of his people and himself. He did not know that Sam Houston was violently protesting the failure of the Congress to ratify the Cherokee agreement. Chief Bowles was shot down believing that he had been betrayed by his old friend.

By 1839, the Indians had been driven across the Red River and the hills of East Texas were free for settlement by all who would come there to build and prosper. Colonel Rusk returned to his home, having fulfilled the final chapter of his military career. Beneath the black asphalt of the driveway in the park rested the ashes of Colonel Rusk's campfire, the last evidence that the Army of the Republic of Texas had once passed that way, near the giant oak, in pursuit of the retreating Cherokee.

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The roar of an 18-wheeler stirred Matthews awake and he was surprised that he had dozed beneath the protective-umbrella of the oak. He felt refreshed, however, and admitted to himself that he had needed sleep.

He had not slept well the night before. Perhaps the excitement of a new job had kept him awake. That could have been it, but Matthews would never admit it. He was not given to feelings for such minor reasons. Creig Matthews considered himself to be cold.... cold as rattlesnake eyes.... and just as dangerous.

He did not remember the last nine miles driven. Suddenly, as he was braking at the red light on Loop 323, the oval-shaped thoroughfare surrounding the city, he realized that he had not been aware of nearing his destination. Slowly, he drove eastward toward the downtown area where the banking community had created buildings that now formed the skyline of Tyler. He would park beside the city square and organize a schedule for all that had to be done that day. He was methodical and believed in systems. From the rear seat, he retrieved his attaché case. Opening it, he removed the letters. With a slight smile, he reviewed the message contained on each.

"Dear Craig:¹

Late last week, I learned of your resignation from the Department. Please feel free to call upon me for any assistance that I can be in your future endeavors.

I want you to know how much I have personally appreciated your loyalty to the Administration and to the good people of Piano over the past seven and a half years.

I know that you have always done your best for this community, the city government, and the Police Department; and I wish you the very best in the future.

Sincerely yours,

David A. Griffin City Manager Piano, Texas."

The second letter was written on stationery with large black print

1 Oddly, the City Manager who "personally appreciated" Matthews' loyalty and performance was unable to correctly spell the officer's first name.

announcing boldly, POLICE DEPARTMENT. Matthews read it quickly.

"To Whom it May Concern:

Lt. Creig Matthews resigned from the Plano Police Department effective July 11, 1977, after about eight years of service. We are accepting this resignation with deep regret.

Lt. Matthews, during his career with the Plano Police Department, has served as patrol officer, Sergeant, and Lieutenant, his most recent assignment being in charge of the Criminal Investigation Division. Prior to that he was in charge of the Staff Services Division.

Lt. Matthews gained statewide recognition as an excellent narcotics officer and proved most effective in combating drug problems. His record of supervising undercover operations and securing indictments and convictions is outstanding.

Lt. Matthews was at all times completely loyal to the Department and the Administration, and is highly recommended as an intelligent, effective officer.

Very truly yours,

Duane R Kinsey
Chief of Police
Plano, Texas"

The letters would help. Sound recommendations from top officials. They might offset any questions anyone might have. Questions like why he had resigned in July of 1977 and it was now August of '78. More than a year without a job in law enforcement. Matthews frowned with the thought and closed his eyes with a sigh. He hoped to God no one would ask questions like that.

Now, he would psych himself for the meeting with Chief Malloch. As an actor fits his mind and attitude to a role, so did Matthews attempt to fit his framework of thought into a pattern he thought would be acceptable to the chief. He was, after all, an actor in his own right. He was a damned good actor and often imagined that he could have made a success on the

stage. Narcs are the ultimate actors in the drama of life and death. There are no bad reviews in the narc's world - only obituaries.

The night before, Malloch had called Matthews in Dallas and informed him bluntly, "The job's yours." "

After the polygraph and the review board," Matthews had added with apprehension.

"Creig," Malloch had offered coldly, "when I tell you the job's yours, the job's yours."

With that, Matthews had smiled broadly. "I'll be there tomorrow afternoon."

"Good," Malloch had replied. "We need to get you in operation. We've got some folks down here who need busting. You come to the station tomorrow and report straight to me. Don't tell anyone who you are or why you want to see me. I'll be expecting you."

Matthews liked the approach. The secrecy of the first meeting. He had fostered the question of whether or not Malloch would be cool. He had come to even think in the language of street junkies and dealers. He wondered if the chief would be cool - whether or not the man would have any understanding of how a narcotics officer operated undercover. It would make a difference: A big difference. If the chief wasn't cool, it would mean a lot of activity would be restrained, controlled by reports and demands for contact. If Malloch knew anything about narcs, it would be a simple matter of getting down to business and worrying only about the results.

It always boiled down to the most fundamental point - get results. To hell with anything else, as long as there're indictments and convictions. Nothing else mattered.

He also wondered how his roll would be handled with other department personnel. Would he be brought into the morning briefing and introduced to the entire day shift as the narc who'll be working under cover? How his identity and role was handled would tell him a great deal about whether or not Malloch was cool. He hoped that he would be able to operate outside of the department, autonomous and free of most restraint. That was the best way. For a narc, it was truly the only way.

He recalled his experience while attending a course offered at the Texas Department of Public Safety Academy entitled, "Surveillance

School." A classroom filled with narcs, learning the finer points of gathering intelligence on suspects. Rookies and veterans had gathered there, congregating by night in bars to swap tales of their adventures in the never-never land of undercover.

"It's a bunch of bullshit," the veteran narc had told Matthews that night over a can of Coors at one of Austin's lesser clubs. "Surveillance doesn't mean a damned thing. What the hell difference does it make whether or not you know for a friggin' fact that John Doe is dealing? Tell me that, huh? You want to know how it really comes down?" The man was crushing the empty can within his fist and depositing it on the table between them. Matthews counted the cans - five. "It really comes down to your gut. Don't listen to anything else. You'll learn to pull up next to a car on the street and glance at the driver. Your gut will tell you there's a stash in the car. You can tell by the way the asshole looks at you. He'll sweat and try to avoid your eyes. He'll try to pretend you're not there. Your gut will talk to you then. It'll say, that prick's dirty, man. Surveillance is for the nice guys. The do-it-by-the-book nice guys. They believe in surveillance and whatever word they get from their snitches. They put all their trust exactly where it doesn't belong. Surveillance is fine and a good snitch is worth his weight in gold, but you still listen to your gut first. Know why? Because a damned snitch will turn on you like a snake and set you up. I've seen it happen. In Houston, a well known snitch called the P.D. and told them a drug deal was going down at a certain spot, see? Ten Houston police and Harris County officers raid the suspects, house. He has a gun. Three of the officers draw their weapons and fire. Know what happened then? They run a check on the dead guy to get an I.D. It turns out that he's Monroe Scott, a rookie DPS narcotics agent. Scott was one of the nice guys, trusting snitches and surveillance routines. He got wasted because the snitch got tired of running for him.

"When you really get tuned in to this work, your gut tells you about things like that. You listen to your gut. It'll tell you when something's going sour. Your gut gets tight. Everything gets twisted up from your throat to your ass. You listen to your gut and remember that there never was a nice guy narc.

"They can teach you all this surveillance crap, and if you're smart, you'll take it all in and then shove it back in their keisters. Nobody in this

work can stay alive living by the book. It'll get you killed, that's all it's good for. What you really do, to get the job done right, is first listen to your gut when it tells you that the guy's dirty. Then you get yourself a couple grams of toot² and sit down and snort or shoot with him. There ain't a dealer in the world who's gonna' deal with you if he doesn't see you using. It's one of the facts of life. And it doesn't make a damned bit of difference, because before long, you're gonna' want to use the shit because you won't be able to cope with all the garbage you'll be 'dealing with. You're gonna' be using anyway, so what the hell's the difference? So, you use with the guy and wait a few days. He's got a free ride on your stuff, right? Now you go to him and ask if he knows where you can score some Coke.³ You make the buy and bingo, you've got your case."

The man popped the tab on another Coors and smiled. His icy stare penetrated Matthews expression and he broadened his smile.

"It's hard to swallow, huh? Well, that's the way it is. And I'll tell you something else. You take care of Number One along the way. If you make a two gram buy off the asshole, you get yourself some Mannitol⁴ and cut one of the grams in half. That's the shit you send down here to the DPS lab. If it was fifty percent stuff, now it's twenty-five percent. Still good enough for a case, and you've got a good gram, full strength, for yourself. You're still turning in two grams and you've got a good gram to play with. You've got your own supply and you've still got a case on the sonuvabitch. It's the best of two worlds. Believe me, it's the only way to fly."

Matthews watched with an expression of amazement as the man retrieved a cigarette paper from his shirt pocket and rolled a quick joint. Pinching the cigarette between his fingers, he drew delicately from it, as if savoring an exotic wine. He held it forth to Matthews who shook his head politely.

"Do you see what I'm doing?" the man inquired with a knowing grin. "In a couple of minutes, there won't be a person in here who won't know that I'm smoking pot. They'll smell it and start looking around to see

2 "Toot" is the drug culture term for cocaine.

3 "Coke" is another term referring to cocaine, the shortened version of its title.

4 Mannitol is an infant's laxative readily available in many pharmacies that ranks among the favorites of the drug culture in cutting the strength of cocaine.

who's crazy enough to light one up in a public place. But do you know what I'm really doing? I'm simulating. That's what they teach you in these damned classes. I'm simulating. If the heat comes in here in a minute from now and wants to roust me for smoking pot, I'll put the story on them. The guy at the next table's a known dealer. I want to score points with him, gain his confidence to maybe make a deal later on tonight. I'm not really smoking the joint, I'm simulating. Hell, I've seen narcs simulate themselves right out of their gourds! Then I go into my act about how the cops blew my cover and ruined all chances of setting up the character. See how it works? It boils down to this, Matthews. All those laws you're going to be enforcing, they're made for all these other assholes around you. There's not one law made for the narc. He has his own set of laws. When he starts trying to live by the laws made for everyone else, he's going to get his ass in a world of trouble. He's going to have six of his best friends carrying him out by the handles. No, you live by your own rules and no one's gonna' touch you. The final word is that you're still cleaning the streets of junkies and dealers and you'll be making good numbers in the courts and the D.A. will love you for it. It's one helluva life and you gotta' learn to just live it and enjoy it, because there isn't a soul out there who's ever gonna' understand what a narc's life is really like. You live it and enjoy it and tell the rest of the world to go straight to hell."

He sipped off the cigarette again and crushed another can within his fist. He stared absently toward the wall, as if reading something written there, a message meant only for him.

Matthews frowned with the memory, reflecting how the veteran of the war on drugs might have been many distasteful things, but he certainly wasn't a liar. His lesson of that night had been proven countless times since, and he renewed his hope that the chief would be cool. To be a narc, a cool supervisor was a treasure. When things got tough, it was a necessity.

For a long moment, Matthews sat in the car arranging his papers and composing himself for the meeting. He told himself that it was "no big deal," but he knew it was. It was a very big deal, indeed. He watched the people walk through the city square of Tyler. Pretty young girls clutched their skirts against the August breeze. The final day of August, he recalled. Stately trees stood within the square and park benches were strategically placed beside the network of sidewalks. Beyond the square stood the

brownstone courthouse with barred windows on the top floor. He gazed at the building and thought what the future would bring. How many times would he enter that building to testify against addicts and dealers? How often would he ride the elevator to the sixth floor and book offenders into jail? It might happen in about a year, he reasoned. It usually took about a year to make a really good bust. He stared at the courthouse and wondered.

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It was the year after Texas had gained statehood that the five commissioners entered the region. General James Smith, the 54-year-old campaigner who had fought under Jackson at the Battle of New Orleans in the War of 1812, now served in the legislature of the new state and had proposed that the area be declared a county. The boundaries were clearly described as being the Sabine River to the north; the Neches River to the west; a twisting creek formed the southern boundary known as Cherokee Creek⁵, and surveyors would draw an imaginary line to the east, the only symmetric feature of the county. It would be composed of nine hundred and eighty-four square miles, five hundred and seventy thousand, eight hundred and eighty acres.

The commissioners, W.B. Duncan, J.C. Hill, E.E. Lott, John Dewberry, and John Loller, had been instructed by the legislature to review the terrain of the proposed county and to establish there a city that would become the county seat. The edict commanded that the new seat of government should be situated within three miles of the center of the county on a point of adequate elevation and with a good supply of water. Also, they were charged with naming the new city and county, submitting the names for legislative approval. In honor of the legislator who had submitted the bill for the new county, the commissioners decided to call the region, Smith County. General Smith had, after all, distinguished himself under Jackson, had fought in the Texas War for Independence and had campaigned against the Cherokees. He had earned the honor of having

5 Cherokee Creek is known today as simply, County Line Creek.

the county named for him and the decision was unanimous.⁶

Once the most desirable site had been found, plans were drawn for a network of streets forming a city square where a log cabin would be constructed to serve as the county courthouse. Only the naming of the city remained before the commissioners could consider their work completed and return to other pursuits. President John Tyler had led the fight for Texas statehood, and in a gesture of honor and political allegiance, the county seat was thereafter known as Tyler, Texas. Now, their work was done and the commissioners knew that they would have to leave the future of Tyler and Smith County to destiny and the will of the men who would someday live there.

It was the land that had once made life good and easy for the leisurely bear. The Indians had sought to control the land and had failed, and now the city was founded upon the domain of the great beast. If the land had given blessings to the bear, then the legacy of grace was seemingly transferred to the budding county seat. Within a few years, the tragic Civil War brought the construction of Camp Ford, a ten-acre stockade formed in a square and named in honor of John S. "Rip" Ford, the noted Texas Ranger of that time. The camp stood at a site about four miles northeast of Tyler and was soon redesignated by Confederate military powers as a prisoner of war camp. Even this was an event of extraordinary good fortune, for an active military outpost could well have brought the conflict into Smith County, but the non-aggressive nature of Camp Ford saved the region from being a target of the Union offensive. Confederate victories in Louisiana swelled the camp's prisoner population to an alarming 4,700 and military officials soon learned that the low prisoner-to-guard ratio was inviting conspiracies in the camp of a mass escape. Quickly, farmers and young boys were conscripted from the countryside to serve as temporary guards. It was an act of patriotic zeal the northerners had not expected. Escape would be more difficult now and the hope of finding a

6 In a form of logic that only East Texans can understand, Smith County was named for James Smith who fought against the Cherokee Indians in the region later to be named Rusk County; after Colonel Thomas J. Rusk. Colonel Rusk, meanwhile, fought the Cherokees in the region that would become known as "Smith County. An adjoining county was named after the Indians, Cherokee County, and was given the dubious county seat name of Rusk, a strange blending to say the least.

local sympathizer was greatly diminished. The Yankees had not learned that when the election to determine the issue of secession was held within the Smith County Courthouse, 1,199 residents cast their ballots. 1,149 voted for Texas to remove itself from the union while only 50 voted to remain within the ranks of the states. A 96 percent majority. Yes, it would be difficult indeed to locate a sympathizer in Smith County.

Smith County's second military facility was at Headache Springs, barely two miles outside of Tyler. Here, medicines were manufactured for the treatment of the war wounded. This, too, was a military operation easily overlooked by the Union strategists, ranking very low on the list of military priorities. As the population at Camp Ford continued to grow and escape rumors persisted, an appeal was issued to Headache Springs for reinforcements to relieve the farmers who needed to return to their domestic chores. Two companies of men were detached under the commands of O.M. Roberts and Richard Hubbard.⁷ The supplemental strength at the camp dispelled the escape rumors forever and its operation returned to normal.

In 1865, Union occupational forces entered the county and immediately destroyed Camp Ford, tearing it apart log by log, board by board. A stately Major dressed in Yankee blue, mounted on a spirited bay horse, brought a detachment into Tyler, pausing in the city square in front of the courthouse. The defeat of the Confederate States was reaffirmed in his public statement and he called for the local aristocracy to liberate their slaves. Only in that singular moment had Smith County encountered any association with the worst conflict in national history. Still, there was the innate feeling that Smith County was under some special protection by a mysterious providence and the Yankees among the people were but a temporary inconvenience that would soon pass away.

The post war years passed quickly with Tyler founding an opera house where Sarah Bernhardt once performed. A music club thrived and produced a local singer of such talent that she was accompanied by the John Phillip Sousa band while performing at the Texas State Fair in Dallas. Smith Countians loved all forms of entertainment, and when a renowned

7 Ironically, both Roberts and Hubbard were later to serve terms as Governors of Texas.

ventriloquist performed on the second floor of the new county courthouse, the crowd was so large that the floor joists began to groan with the weight. During the act, a voice was heard in the distance shouting, "Fire! Fire!" The crowd panicked with the announcement and began rushing for the exits. The shifting of the weight was more than the floor could withstand and it collapsed, sending the crowd hurtling downward, crashing upon the lower floor. In reality, there was no fire.⁸

The incident produced no fatalities and only one person was listed as seriously injured. A miraculous escape, indeed. Yet, the hunger for entertainment was not diminished by the near tragedy. Performers continued to be welcomed with throngs of Tylerites and county residents and their performances were always well received.

By the late 19th century, Tyler had an efficient newspaper serving the people with descriptions and announcements of area events. Throughout East Texas, the city was known as one of the thriving centers of growth. Horse drawn streetcars moved slowly down Erwin Street⁹, businesses were born, and the principal arteries of the city expanded to accommodate the rapid prosperity experienced with surprising speed. It was a time of commercial and cultural expansion, producing the names of emerging wealth forming the foundation of all its future years. Roberts, Hubbard, Shelton, Loftin, Swann, McClendon, Fannin, Bonner, Ramey, Roosth, Phillips, Mayfield and other noted names became self-identifying titles as readily as they were surnames.

With time, the horses slowly disappeared from the city streets and electric streetcars moved with rhythmic clacks toward the East Texas Fairground where a yearly agricultural exposition had evolved into an annual fair attracting visitors from a broad area. Tyler was now the crossroad between Shreveport¹⁰, Louisiana and the western giant, Dallas.

8 Historians are divided over whether or not the call of "Fire" was emitted by some prankster on the street below, or whether it was but a portion of the ventriloquist's act, throwing his voice to make it appear to come from the street.

9 With the proper angle of sunlight, one can still detect the darkened bricks along Erwin Street giving evidence of the twin tracks of the old streetcar line.

10 Shrevesport was the original name of Shreveport, Louisiana. The "s" was later discarded

No other city could challenge its position of prominence and fate continued to bless it, bringing a spur from the Pacific Railroad into the bowels of the city. Now, the flow of commerce could be easily scheduled and transported to far reaches beyond the county. Enterprising agriculturalists discovered that the land of the region was well suited for a variety of pursuits and nearby Lindale became known for its strawberries while the hamlets of Flint and Bullard produced new, promising strains of tomatoes and other bounties from the fertile earth. The sprawling fields nearest Tyler were planted with long, rigid rows of roses and within a single lifetime, Tyler was to produce one-half of all the commercially grown rose bushes in the world, shipping over 20 million bushes a year to all parts of the globe.

The blessings granted to the stately bear continued to be bestowed upon Tyler. Other cities struggled for existence and often became deserted reminders of shattered dreams. By November of 1922, the nation was enjoying a surging economy and Tyler was celebrating the grand opening of the Blackstone Hotel, a luxurious monument to the continued progress of the city. The hotel had been named after the famous Chicago institution noted for its regal atmosphere and meticulous service. In the months of its construction, the vengeful spirit of the Cherokee returned to haunt the area when an underground spring used by the Indians erupted and often flooded the basement. By November 29th, however, the local newspaper heralded the grand opening as "a great day in Tyler history." While scandals were rare in Tyler, one developed the night a boiler exploded in a cleaning establishment across the street from the Blackstone. The blast was so powerful that fragments of the boiler penetrated the wall of a neighboring building, killing a secretary working there. When investigators inquired why the boiler had been left unattended, it was revealed that the owner of the cleaning establishment had been in the Blackstone attending a portable crap game that had been in operation for several months. The proprietor had been "on a roll" and had stayed too long.

If such tragedy was to strike the city, it was understood that it was inevitable, for growth and destiny prescribed such things. The people maintained an attitude of optimism and good humor. Within the Black-

stone, a coffee clutch¹¹ was founded where local businessmen would gather on Wednesday mornings to swap stories and gossip. Slowly, the membership of the clutch grew, sometimes having an attendance in excess of 200. With their typical wry humor, the clutch developed an unusual protocol. A guest speaker would be invited to address the prestigious group and after coffee and a Danish, the speaker would be introduced and approach the podium to begin speaking. This was the cue for the entire membership to arise and promptly leave the room. The clutch meeting was over and another speaker had been the target of their pranks. Local notables and state governors alike received this dubious treatment, and the clutch was to endure more than fifty years. Once, the clutch invited a governor to address the group only to have the chief executive of the state decline the offer, tipped off, no doubt, to the group's idiosyncrasy. In retaliation, the clutch sent the governor a bill for his coffee and donuts. He paid it.

On December 31, 1975, the Blackstone Hotel closed its doors and the clutch held its final meeting within the grand hotel. Tyler attorney Weldon Holcomb recognized the sad event with typical clutch humor, announcing, "Since the coffee was cold and the waitresses were late in delivering the donuts, I move that we never again meet at the Blackstone." The motion was approved unanimously.

With the grand hotel as the keystone of Tyler's budding success, the city reigned as the dominant source of activity throughout the region. By 1945, a community once challenging Tyler for the title of county seat was but a skeletal ghost in the midst of the deserted Camp Fannin, where signalmen were trained for the Battle of the Bulge. The great depression of the thirties had been felt, but was never destructive to the city's spirit. The great wars had come and gone, the last one resolved in the mushroom cloud of incredible destruction, but still the region had been exempt from any significant turmoil and life continued with the ease of an old southern grace. Blacks sat in the rear of the buses that moved shoppers toward Dallas. Private vehicles were now the prime source of local transportation, the streetcars having disappeared near the end of World War I. Theaters

11 For some reason, the group actually called their gathering a coffee Klutch, with a "k".

had partitioned balconies with restrooms and water fountains designated by race. Tyler was captured by the Twentieth Century, but the old world values of a noble aristocracy yet remained.

Among the signals of progress was the establishment of a United States District Court for the Texas Eastern District within Tyler. From this court came landmark decisions that altered the cultural profile of the nation. Integrated classrooms were mandated by the court, bringing the end to the era of pure aristocracy where racial elevation was a way of life for all Caucasians. To this date, calls for impeachment against the courageous judge rendering the decision are yet heard within Tyler.

The ruling gave evidence to the character of Tyler where change comes with resistance and is rarely voluntary. Fathers were permitted in the delivery rooms of Dallas hospitals to witness the miracle of birth a full two decades before the simple, well-accepted, practice was permitted in Tyler hospitals. Only the action of the courts enforced the free education of children of illegal aliens in Tyler schools. State authorities forced the building of a new Smith County Jail after area citizens voted down a bond issue providing for its construction. A second bond issue passed only after the populace was informed that, "either pass the bond or the state will force us to build the jail whether we want to or not." Smith County still prohibits the sale of liquor except in private membership clubs, prompting a local sage to comment, "The good Baptists of Smith County will keep, the county dry as long as they can stagger to the polls."

Smith County is among those within the state consistently rejecting referendums that would permit parimutuel betting, but on any bright weekend afternoon, a Tylerite can greet a host of his friends at Louisiana Downs, the track in nearby Shreveport, Louisiana. The county fosters the notorious "blue law" prohibiting the sale of "non essential" goods on Sunday. On any given Sabbath, a consumer can purchase a can of beans, but not a can opener. A pound of coffee is obtainable, but not a coffee cup or a coffee pot. A container of floor wax can be purchased, but not a mop. It remains a region dedicated to the status quo, ever fearful that change will disrupt the flow of life, its quality, and the inherent blessings of a sound, fundamental Baptist dogma.

Nothing brought greater change to the area than the discovery of oil in Smith County's backyard by the infamous Dad Joiner. Farmers who

had wiped the sweat from their brow beneath the summer sun suddenly found themselves millionaires when tentacles of petrol pools were detected beneath their land. Roughnecks flooded the region and the grasshopper pumps of the industry groaned their song of wealth. A new era had arrived and Tyler became the oil capitol of the state with ninety one operators maintaining corporate offices within the city. The oil boom of the early thirties brought a new directory of names representing "new money" wealth and challenging the old historic families in both fortune and influence. Fair, Genecov, Pirtle, Caldwell and Wisenbaker were but a few of those who found wealth in the land or in supplying the explosion of newcomers. Hedge, Coleman, Zeppa, Hughes, Manziel, Phillips, Spence, Hudnall, Wise and McKnight... the list went on.

It would have seemed that the bounty of the land had been enough. The earth had richly produced crops and deep, expansive veins of coal abounded. Timber was dense in great supply and a treasure of nature was great upon the land. To have the immense wealth of oil yet within the soil was a blessing too great to contemplate, yet it was there and granted to the people as if they were the chosen ones, honored by fate or providence for some undiscovered quality they possessed. Farmers who lamented that oil had not been discovered on their land were yet catapulted to wealth when a man-made lake was created near Tyler. Lake Palestine (Pal-es-teen) was formed by controlling the natural flow of the land's drainage and permitting Flat Creek and other tributaries to flood the lush valleys. Where crops had embroidered the horizon, a lake was born and the farmers were now principals in resort communities and hawkish land sales. A sport fishing industry was founded and marinas dotted the shores where large mouth bass darted within the murky shadows.

With the blessings of their times, the people were being slowly divided into the elite categories of the "haves" and the "have nots," and a system emerged delicately bordering upon a caste arrangement. It soon evolved that the "haves" would live in particular areas of the city, not unlike most other cities, and their children would attend Robert E. Lee High School. The "have nots" would appropriate the north end of the city, the black district, and their children would, for the most part, attend John Tyler High School. If the typical athletic rivalry existed between the schools, it was as much a social protest as one of academic loyalty. The remainder of

the city would house the middle class, the silent current of society that could rise above the "have nots" but be always restricted from the rapid elevation to wealth as existed in the days of the oil boom. A responsible middle class worker would be known in East Texas jargon as "a good ole' boy," but the north end black would remain to much of the aristocracy as a simple nigger that could be beckoned with the call of "boy." The elite would remain socially aloof, dining at the Petroleum Club and cherishing country club memberships. In moments of charity, the elite would provide for the needs of the other classes, but the association would end there. It was as if the lower classes could not rise, but the wealthy certainly would not stoop.

Among the many elements separating East Texas from all other regions of the nation is its unique method of communication. The language of the region is filled with colloquialisms of astounding proportions. An almost psychic factor is found in their constant references to that mystical location known only to East Texans as "yonder." A child may ask where a toy is and be told by an attentive parent that the object can be easily found "over yonder." Invariably, the child is directed with the singular statement to the exact location of the toy, as if the word had been a complete verbal map. Upon asking a service station attendant where a particular street could be found within the city, he replied, "It's right over yonder." When asked where "yonder" was, he replied, "When you drive away, look back. I'll be yonder." At the same time, references common to other regions of the nation seemingly exceed the boundaries of the territorial language. A New Yorker once visiting Tyler gave the account of her experience while patronizing a Tyler restaurant. Scanning the menu, she was delighted to read, "Soup du Jour." With a polite smile, she inquired, "What is the Soup du Jour?"

"Oh, that," replied the rural waitress, "that's the soup we change the name of every day." Those unfortunate enough not to be first generation residents of the county will always be "a newcomer" or "an outsider." To truly understand the language and customs of the area, one must necessarily be an East Texan. A true East Texan has his birth recorded within the courthouse, and a real East Texan will find his parents' registration there as well.

The conservatism of the region is demonstrated in the collective

attitude adequately represented by the "it was good enough for my daddy," philosophy. Decades of social anemia dictated that young couples would drive in repetitious circles along Tyler's main artery, Broadway, throughout the weekend evening hours. In this nomadic cycle, they would encounter friends, stop and chat for a moment, return to the circular route around the city square, and finally surrender the activity for a Coke at McDonalds and a goodnight kiss. The facts are simple. Tyler offers little else for its youth to do. The "cruising" of Broadway is a necessity for recreation as much as it is a tradition. It has been best summarized by the youth commenting, "What else is there for us to do, go down and watch the Safeway truck unload?"

Whatever its social shortcomings may have been, Tyler remained ultra-conservative. It was a no-nonsense place where the corrupting influences of metropolitan areas could not be tolerated. Before the restrictive laws governing marijuana were enacted in Texas, Tyler juries were well known throughout the state for assessing 50-year prison sentences for possessing a single joint. It was in Smith County that a Spanish-speaking illegal was driven by hunger to take two peaches from the fruit stand of his former employer and was sentenced to an astonishing six months in jail. Ninety days per peach. He served every day of it. Justice was stem and exacting to the Smith Countians and especially when imposed upon the "have nots." It was typically these, the "have nots" who occupied the cells behind the barred windows of Smith County's seventh courthouse, a squat Gothic building erected in 1954. It had been erected with the taxes of the people, but the "have nots" related the joke that for them the jail was built with their taxes, but they considered it as "rent" for the day that was to surely come. As a result of the countless experiences such unfortunates endured within Smith County's jail, the general public was divided again into those who loved Tyler and the area deeply, and those who hated it with an undying passion. Often times, the contact with the county did not have to be prolonged for the hatred to be planted in the fertile soil of reason. In 1980, a local furniture store placed on display for free public viewing an authentic masterpiece by Rembrandt. A curator came to Tyler from London to watch over the painting and to reply to whatever questions the public may have. Although a respectable number of citizens filed by the masterpiece, the typical comment related to the

curator was, "That sure is a nice picture." It drove the cultured young man to the point of madness. "My God," he lamented, "you'd think it was something I just shot with a Polaroid! It's a nice picture? What the hell ! does that mean? It's a priceless work of legitimate art! There wasn't a handful of people who recognized what they were viewing. There were only people parking their pickups with the rifles hung in the back windows, turning off their ignorant country-western music, walking in with their jeans having the circle faded on them from a can of Skoals, and muttering that they had just seen a nice picture! This is what we displayed this masterpiece for? Never again. I hope to God we never do this again." To this day, they haven't.

Like complaints came from the visiting cast of a Shakespearean company performing at Tyler's Caldwell Auditorium.¹² When the curtain opened, there were more people in the company than there were in the audience. "Forget us ever coming back," one of the cast stated bitterly. "People around here think that Shakespeare is a flavor of Wrigley's gum."

As with most people, there was much to love and to detest about Smith County. But Creig Matthews hadn't learned that yet.

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The meeting with Chief Malloch had gone quickly and smoothly. At least, the man hadn't lied. The job was indeed Matthews' and there was no resistance from the review committee. Matthews had the distinct feeling that the board had received some prehearing instructions and the interview was a formality more than a session where legitimate questions were presented. Even the polygraph was almost humorous. The examiner had casually commented, "You're a nine-year police veteran and so am I. Let's conduct this thing on that basis." The only question the examiner asked twice dealt with whether or not Matthews had ever smoked marijuana. He indicated to Matthews that the response had revealed some indications of stress.

12 The Caldwells are among the "haves" who contributed greatly to Tyler. The Caldwell Auditorium and the impressive Caldwell Zoo represent but a portion of such contributions.

"Yeah, I'm not surprised," replied the clever applicant. "I've simulated smoking pot. Lots of times. That's probably why you get a reaction on the box."

"Yeah," the examiner agreed. "That's probably it."

Matthews passed the polygraph with the examiner's notation that no "deception" had been revealed within the analysis of the polygraph tape. Within the Tyler Police Department, Captain Bob Bond had been given the task of doing a background check on Matthews. It was during this period of Matthews' introduction to Tyler that Bond revealed to Chief Malloch that the narc's background had not checked out too well and Bond suggested that perhaps the man should not be hired.

"He's okay, Bob," Malloch had replied. "Everything will be okay. He's our man now."

Bond's recommendation had been ignored, but everyone knew that Bond was an honest cop, an honorable man. In dealing with the strange nature of narcs, qualities like honesty and honor would have to be ignored and forgiven. They rested on the fringes of being naive. Benjamin Creig Matthews was now an official member of the Tyler Police Department, ready to receive his specific orders from those contacts he would maintain throughout the days of his undercover activity. He was a member of the team, and that made him exempt from that moment on, from all inquiry and criticisms from the ranks.

Creig Matthews would learn much about Tyler in the days before him.... and Tyler would come to learn about him.

"You had one Ken Bora who had come into Tyler some year or two years earlier and with his partner, Frank Hillin, had opened up not one but two nightclubs. This man, Ken Bora, had become known as the porno king, the pornographic king of East Texas. His nightclubs were known as veritable cesspools of drug users. It was common street talk that you could go there to get drugs. It was common street talk that he was taking twelve, thirteen, fourteen-year-old girls and through the use of drugs or whatever they do with them, making pornographic movies with them."

*Attorney Rex Houston to the jury
February 16, 1982*

THE MAN CALLED BORA

Matthews had arrived early at the station. He had not slept well the night before. Motel rooms never permitted him to sleep soundly. He would wait to find a permanent place to live until later, for often the drug culture had particular areas of town in which to live, some addresses that were acceptable to their core group, and some districts of the city that were not. For the time being, it would have to be the Holiday Inn, and he would have to learn to live with it.

On that morning, September 1st, he had been discreetly ushered into Chief Malloch's office through a side door that was the executive "private" entrance. Once inside, a brief meeting was held between Malloch, Assistant Chief Willie Hardy, and himself. Nothing significant was said, merely the "did you get to look the town over?" sort of dialogue. Even so, Matthews felt the inquiries had gone well and he was now confident that he was "in" just as Malloch had promised. Hardy was another matter. He did not like the man. The slender, hatchet-faced man with the trim mustache embroidering his lip. Matthews analyzed his gut reaction

for a moment and then felt certain that his impression was correct. He had learned by hard experience to always obey his instinctive reactions. He quickly characterized the Assistant Chief as someone he would never go to to buy a used car. His training taught him to make rapid assessments. He could immediately evaluate a person, probing for his inner weaknesses, those vulnerable areas that could possibly be used later as soft spots toward a person's nature - the inherent weak links within his character. He detected the finely trimmed edges of Hardy's mustache and determined that the man was vain. He was possibly a "woman's man." At least, he was relatively certain that Hardy believed himself to be appealing. Perhaps that would be an Achilles' heel. He directed his eyes to meet Hardy's and discovered that the stare could be easily returned. It indicated to Matthews that the man was tough and unyielding. There were signals that Hardy was ambitious and filled with a zeal to gain power. Yes, that was obvious. Matthews made mental notes of each observation, recording them silently as if to be kept for some future reference. All the while, he felt that Hardy was doing the same with him and his uneasiness expanded to the concept that someday, he would need all the data he could gather and that his appraisal that Hardy was dangerous was indeed correct.

The Tyler Police Station was a relatively new building, almost clinical in its atmosphere. Tiled hallways were trimly placed with little adornment. It was extremely functional, but held that touch of austere design that reminded Matthews of a hospital far more than a bastion of law and order. Basic metal furniture were aligned precisely with the lines of the floor tiles and workers glanced up automatically, then returned to their labors with an almost robotic response. Malloch and Hardy walked with him down the hall, like official bookends to some valued volume. Their steps echoed against the walls, toward a door with VICE DIVISION painted on the glass.

"I'll get you introduced in here," Malloch said softly, "and then I'm going to have to run. I've got some appointments, so I'll leave you with Willie here for orientation."

Matthews nodded politely with "oh, crap!" shooting through his mind.

Within the Vice Division, Matthews observed an office with twin metal desks flanked by rows of filing cabinets and a drab, squatty vault

perched in one corner. He was introduced to Sergeant Loyd Waterman, a career officer supervising the Vice Division and a second generation officer. Waterman's father had once been a sergeant with the Tyler P.D. The remaining member of the division was Mike Lusk, the burly, no-nonsense officer who had worked in vice for almost a year. Both Waterman and Lusk had tried their hands at undercover with Lusk operating under the name of Lee Costello. Matthews smiled with the introductions, feeling as if he had entered Wonderland. His mind toyed for a moment with the question, "If Lusk had been Lee Costello, who was Waterman, Bud Abbott?" In reality, neither Waterman or Lusk had been overly successful in undercover work and the potential for any future success in such operations was minimal. Both were too well known in the city.

Matthews listened to the narration of the men's experiences, presented, he knew, to acquaint him with all the previous activity within the division. Waterman was the veteran of the division. He had first been assigned to the detail when Willie Hardy was a Captain in charge of the vice office. With Hardy's promotion to Assistant Chief, Waterman had inherited the supervisory role, but with the rank of sergeant, for rank was an odd commodity within the department, sometimes appearing to be granted to only a chosen few. By the strict application of the Assistant Chiefs job description, Hardy should have had supervision over all administrative personnel; the clerical help, maintenance, janitorial, etc. The job was, in fact, also referred to as "Administrative Chief" instead of Assistant Chief. Yet, Hardy had kept his control over vice. It was his first love. The excitement, drama and intrigue of its operation was more than he could surrender and Malloch seemed more than willing to leave the operation of the Vice Division under Hardy's control. Waterman never understood the arrangement, but endured it stoically in the name of job security.

Hardy related to Matthews that he had, in fact, been the first undercover officer in Tyler. He had been assigned to vice as early as 1971. These, to the Assistant Chief, represented the "old days." It was the time of the "Rose Room Massacre." In the northside of the city, deep within the black district lawmen called "The Cut," a nondescript bar operated with dim lights, loud music, and a stench of spilled beer serving as the

backdrop to the transactions of many known drug dealers. On the night of the "massacre," Hardy had determined that it was time to come out from undercover¹³ and entered the club, unplugged the juke box, kicked it across the room, and screamed, "This is a raid!" With exuberance, Hardy related the shock and fear of the occupants of the bar and boasted of how his bold action had put a kink in the drug traffic in the black district.

Somehow, in hearing the story, Matthews found it difficult to imagine Hardy as a narc. There was nothing smooth or subtle about the man. One had to be able to blend into the background to successfully operate as a narc. There had to be the ability to achieve what the narcs called, "getting down and dirty." That ingredient was simply not apparent in Hardy and Matthews smiled as he thought, "If Willie Hardy was a real narc, then I'm the son of the Pope."

He watched as Hardy giggled with the recollection of the reactions of the blacks. Waterman politely chuckled in unison with the Assistant Chief and Matthews was disturbed by it. He disliked authority that demanded such counterfeited reactions from subordinates. He recognized that such humiliation was not commanded, but was gained by the demonstration of power and the slow, cancerous saturation of fear. He disliked it deeply and found himself disliking Hardy even more. For a moment, he wished he was not truly experiencing the scene, but longed for it to have been a scene from Barney Miller, for it had the same absurd quality about it. Even so, he could find no humor in it. From his knowledge of the workings of men, he realized that Hardy was telling the tale expressly for his benefit. It was an attempt to impress him. It was Hardy's way of saying, "I've been there, so don't feel superior with me!"

The analysis brought to Matthews' mind the introduction he had earlier with Captain Kenneth Findley of the Tyler P.D. Findley had impressed him as a man who couldn't stand anyone who thought themselves to be superior in any realm. Hell, he thought, Findley couldn't stand the thought of anyone being *equal*. It was a stark similarity and Matthews summarized his thoughts before dismissing them. Damn, he reasoned, Hardy and Findley are clones!

13 In the jargon of law enforcement, to come out from under cover is called "busting out," or referred to as the "bust out."

Matthews wondered how the introductions had strayed into Hardy's long narration. Yes, the Assistant Chief had told of Waterman's long association with the division and that had wandered into Hardy's account of the experiences. Maybe it had been an attempt to impress him that Tyler was not totally rural, that there was an element of the "big time" in its midst. After all, his records showed that he had served with metropolitan police forces, and Tyler was certainly a contrast.

Waterman was now certain that some discussion could take place without seeming disrespectful to Hardy, and he began asking Matthews questions about his background. Where had he worked before? Dallas and Plano, Texas. He had been a Lieutenant with the Plano Police Department in charge of Criminal Investigation. That seemed to impress both Waterman and Lusk. Had he had much experience in undercover work? With Plano, he had "gone under" for several months and had gained forty-nine indictments, all of them resulting in convictions. That was a sure clincher. Each of his statements was confirmed by letters of recommendation from the Chief of Police of Plano, Plano's City Manager, a County Judge, the District Attorney.... yes, it had to impress Waterman and Lusk. Was he knowledgeable of drugs? Matthews related his experiences in the operation that had produced the forty-nine busts. It had brought him statewide publicity. Yes, he knew the street language and could "talk dope" with anyone. That seemed to do it. Waterman nodded toward Hardy with a broad grin. "I think you've found a winner here, Chief," he said, and Matthews was pleased with himself.

Hardy returned the smile. Actually, Matthews had been "discovered" by Malloch, not Hardy, but the Assistant Chief didn't reveal that to Waterman, and that told Matthews something else about the man's character.

In reality, it had been a stroke of luck. A former narc who had once worked with Matthews and had kept in contact with him through the years told him that Tyler was looking for a narc. He had called Malloch and the interview had been scheduled. Hardy had never been aware of the contact.

"I'm impressed," Waterman confessed openly.

Lusk nodded his agreement. "I certainly am," he chimed.

"Good," assessed Hardy, taking control again. "Then let's get down to business. Creig needs to know something about why he's here. What the situation is. Loyd, I want you to give him every scrap of information you have. Give him some idea of our problems and maybe then we can put some direction to this thing."

"Okay," sighed Waterman. "Hell, it's hard to know where to begin. I guess the first thing we ought to say is that you're our third undercover man here."

"The third?" asked Matthews with an expression of obvious surprise. "'Yeah, first we had Mickey Spencer. We wanted him to get some inside info about a club operating here. The Smith County Electric Club. We know there's a lot of dope dealt there. We lined up one of the local dopers, a kid named Steve McGill, to front for Spencer. McGill was on parole at the time and Mike here," Waterman nodded toward Lusk, "he got the kid to go with Spencer to the club to kinda' introduce him around. We felt that if he was seen with a known doper, no one would raise too many questions. That was a mistake. A bad one. Mickey had to take a leak and went into the john. While he was gone, someone put some PCP¹⁴ in his beer. Damned near blew his mind. He wasn't worth a damn after that."

Matthews raised his eyebrows. "Ever find out who did it?"

"Oh, we're ninety-nine percent sure that McGill did it himself, but we were never able to make him on it. But it damned near killed Spencer. We had to pull him out. After that, we got a rookie on the department from Washington, D.C. A fuzzy-faced kid with a helluva background. He had been a fingerprint examiner for the FBI in Washington and wasn't known around town. So, we put him under as a high school student at Robert E. Lee High School. It was just a way to find out how bad the drug situation was on campus. The kid's name is Bill Goecking. He's still with us. Did a damned good job, I think...."

Hardy nodded, interjecting. "A damned good job."

"The bottom line, from Goecking's work, is that we have a real prob-

14 PCP is an animal tranquilizer used by veterinarians and also used by some as a hallucinatory drug with unusual "highs." In street jargon, it is also referred to as "Angel Dust." Its bizarre side-effects has made it relatively unpopular for common use, but is a standard drug used in spiking drinks of suspected narcs.

lem. It's mostly speed¹⁵ at this point," surmised Waterman. "Not a helluva lot of cocaine. Heroin's not on the scene yet to any noticeable degree. But the whole business seems to be on the upswing and gives us some reason for alarm."

Matthews turned with the sound of Hardy's voice saying, "Tell Creig about Bora, Loyd."

"Yeah, Bora," sighed the sergeant. "He's a tough one. Where in the hell do I start with him?"

"He's the man," interrupted Hardy. "Bora's the one we have to get if we don't make a case on anyone else. Start from the beginning, Loyd. From the first time you ever heard about him."

"That was when the Chief here asked you to pay a call on him, remember?" advised Mike Lusk, indicating with a nod that the "chief" was Hardy.

"Yeah," agreed Waterman. "But let's give some background first. About a year or so ago, Bora and a partner, a guy named Frank Hillin, opened up a couple of night spots here in town. Another Place is one, and the other's called the Point 21 Club. God knows where they got the names, but they're flashy places, blinking lights, rock music, all that kinda' crap. Mostly kids hang out there. Anyway, not long after they opened, Chief Hardy here asked me to go out to the Phase 21 and meet with the owners. We do that sort of thing with new businesses. We tell them that they should call us if they have any problems. Especially the clubs. You know, some kid comes in wanting a drink and doesn't have an I.D., that sort of thing. Sometimes the kids get rowdy if they don't let him in. So, we tell them to call us when things like that happen. We tell them we'll keep a watch on their parking lot for any signs of vandalism or break-ins. It's a public service kinda' thing.

"Bora and Hillin seemed nice enough. Bora's a big guy. Mean looking. You get a bad feeling when you're around him. The kind of feeling that tells you he's mean. But on that day, he was nice enough and seemed to be a pretty good businessman. God knows they were doing plenty of business. Anyway, I made the call and everything went alright. Not long after that, though, Chief Hardy got word that something was going on out

15 "Speed" is the name given to amphetamines, or "uppers."

there. There started to be all kinds of feedback about the places. There was supposed to be some drug traffic taking place at the back door of the Point 21 Club. There was a truck parked out there that was supposed to be used for drug traffic and to transport stolen merchandise and porno materials into Tyler...."

"Bora's big in porno," added Hardy emphatically.

"So," continued Waterman, "we started a surveillance of the back door of the club. We watched the truck. I guess we kept watch for over a week. The truck never moved. The only folks using the back door were employees dumping the garbage. We didn't turn up a thing."

Matthews frowned. "Can I ask questions?" "Sure," replied Hardy.

"Well, I'm a little confuse. None of you are involved in any undercover work right now, right?"

"Right," confirmed Hardy.

Okay, if you're not out on the street getting information, how did all of these stories get to you?"

Hardy smiled knowingly. "I've never let go of my snitches, Creig. I've kept a hold on all my snitches from the old days."

"And," Lusk added, "the information about the truck came from the Dallas Police Department intelligence guys."

"Yeah," Hardy agreed. "We ran a check on Bora and Hillin with the Dallas P.D. because they had come here from Dallas. They tipped us off on a lot of things about Bora. He had two porno raps in Dallas and the Dallas boys suggested that we ought to contact the Ector County¹⁶ Sheriff's Office. We gave them a call and it came back that Bona was a suspect in a murder down there. Maybe two. In Dallas, he was known as a porno kingpin. They put the heat on him there, so he came running to Tyler and opened the clubs. The way the clubs operate, they're perfect fronts for whatever he wants to do, and God knows what that is. Dope, pornography, just about anything. Then, we got word that a guy had paid Bora and Hillin a visit at the club. We got the guy's name and ran a make on him. It came back that he could be linked to organized crime. We're not talking-about anything small-time. But when you get around and learn

16 Ector County is located in West Texas and has Odessa Texas as its county seat.

about Tyler, you'll find it's a pretty quiet place, Creig. Folks here don't like that sort of thing. You're not going to have one of those situations where the public's against you. You'll have full support here."

Matthews received the news with true appreciation. "I like hearing that. What about money, though? What kind of budget do we have to do this operation? It takes money to make someone like Bora."

Hardy smiled. "Whatever you need, you'll have," he assured Matthews.

To Matthews, this was even better news. Most police departments operated on limited budgets making a bust nearly impossible. If there wasn't cash available or flash money¹⁷ to conduct a deal, making a case was unlikely.

Tyler's new narc nodded his appreciation of the news and asked, "Do you have a file on Bora?"

Lusk quickly stood from his chair and opened a file cabinet. "Got it right here," he commented, handing the file to Matthews.

Matthews fingered the file with KENNETH ANDREW BORA written on its tab. Inside, Bora's rap sheet rested in the dot matrix type from the Austin Department of Public Safety. Two counts of commercial obscenity had been filed in Dallas. Fines paid, no further action. One traffic check. "This is it?" he asked with obvious confusion.

"See what I mean?" asked Hardy excitedly, pointing to the printed lines. "Commercial obscenity. Porno stuff, just like I told you."

"Yeah," agreed Matthews. He blinked with the sight of the sheet. Two minor offenses and a traffic check. Hardly the stuff a kingpin of organized crime was made of. "Yeah," he repeated, for he needed the job and if it had to be Gulliver among The Little People, then it would have to be that way. He sighed, closed the file and thought of Hardy's declaration. "If we don't make a case on anyone else, we have to get Bora."

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Kenneth Andrew Bora was born on November 15, 1944 in Cleveland,

¹⁷ Flash money is cash displayed by a narc to give evidence that he has sufficient resources to complete a drug deal, but is not actually expended at that time.

Ohio. A second generation American, his grandfather had entered the United States thirty-five years earlier. With anticipation and fear, Petre Bara had stood in the long line at Ellis Island and listened to the immigration officers process the aliens with basic information questions used to complete the entry forms. When the officer asked, "Name?" Petre had replied timidly, "Petre Bara." The officer quickly wrote, "Peter Bora." The immigrant from Transylvania glanced with alarm toward his wife.

"It is wrong, Petre," she whispered. "He has written your name wrong."

"Hush, mother," he advised harshly, "we do not want to anger him. Let it go. It is a little thing."

His name was not Bora, yet, one mustn't question the officials of a new land, especially a country as wonderful as America. No, he would remain silent and be forever known as Peter Bora. It would be good enough. It would be hard to turn from the name of his fathers, but to be in the United States was reward enough and in that moment, his silence seemed necessary.

For other branches of the Bara family, the name would be entered correctly on immigration records. From his strong root of Romanian stock came such notables as the renowned actress, Theda Bara and one who stemmed from the further corruption of the surname, the famous golfer, Julius Boros.

Among the qualities inherited from his grandfather was the sense of frugality. The Boras respected money and taught their children the value of hard labor and the wisdom of spending and saving with good common sense. Bora's father had always been a builder. His hands were calloused from the hard life of a carpenter and his sense of contributing to all by his efforts was the essence and the lasting fulfillment of his life. Ken Bora's uncles had risen to the top ranks of the organized labor echelons by hard work on the state and national levels. Grandfather Petre had been right. America was a grand land and with hard work and good judgment, all things were possible.

It was apparent from his early elementary days in Cleveland that Ken was going to be a man of abundant size. By the time he entered public high school he was already brushing six feet in height and was tipping the scale at 180. If he was lacking in academic achievement, young Kenneth

made up for it with his athletic prowess. By his sophomore year, he was already varsity baseball, football and wrestling team member. His talents were so impressive that a parochial school in Chardon, Ohio offered him a scholarship, luring him away from his public high school and into the ranks of the dominant Catholic League. The transfer required a move to Chardon, but it wasn't a sacrifice to the senior Bora. A builder's life is transient and there was plenty of work in Chardon, and a more pleasant atmosphere of a rural surrounding. For the school, it was a move of astounding benefit. Bora was a flame-throwing pitcher who had chalked up a one-hitter and an impressive win-loss record in his remaining two years. He had been selected as the "Back of the Week" by the Cleveland press when scribes noted that as a quarterback, he could hurl the pigskin seventy yards in the air with amazing accuracy. His four-year record as a wrestler was marred by only two defeats.

By his senior year, young Ken had attracted the attention of scouts from the Cleveland Indians. Scouting reports filed with the front office of the Indians organization listed Bora as 6'1" and weighing 205. It stated that the youngster had an impressive fastball with good control. "He can throw a ball through a brick wall." It indicated that the young man also possessed a good breaking pitch. He was termed as "a fine prospect."

Because Ken was still a minor, it was necessary for the Indians to negotiate with his father. Minors could not sign contracts. It was the custom of the Indians to determine if a prospect intended to attend college and with a professional benevolence, encouraged them to do so. They recommended Hiram College, a school where baseball was the dominant sport and one with which the organization had a sound working relationship. Scholarships could be arranged, and the club could monitor the young man's progress. It was this that they proposed to the senior Bora.

By this time, the offer from the Indians was not overly impressive. Ken had received recruiting letters from no less than twenty-seven universities, four of them from the Big Ten. None of the members of the Bora family were college graduates and had little awareness of the requirements of the schools. But it was apparent that Ken had skills in demand by such schools, and the small Hiram College may not be the pathway to his fame and fortune. The offer by the Indians was refused. There would be time

for major league baseball later. It was now time to gain an education that would provide for the young man once his athletic days were over. The common sense of the Bora heritage was dominating, and it was the destructive factor that would soon be reckoned with by the young athlete.

Bora soon discovered that the Big Ten had a regulation that no scholarship athlete could be enrolled unless he had ranked in the top one third of his class academically. So much for the Big Ten. Ken had ranked in the bottom one-third. School after school withdrew their offers when it was discovered that the magnificent young athlete was academically anemic. A scholarship was a large investment on the part of a school, and they wanted some assurance that the young man would complete his studies and graduate. It is of such stuff that athletic programs are made prestigious and lasting. Ken Bora was not the kind of material that could satisfy their overall needs. He could throw a football and baseball and wrestle opponents, but the books would defeat him easily.

"Attend a quality junior college and get your grades up to par," was the common advice. Ken was ready to agree when he received a letter from Mike Epstein, a former classmate at Chardon who had migrated to Texas Western University¹⁸ at El Paso, Texas. His former football teammate spoke in glowing terms of the vast opportunities at Texas Western for a quarterback of Bora's caliber. The school had fallen on hard times and recruiting was a major effort in view of the long history of losing seasons. With Bora guiding the team, he could just about write his own ticket. And Texas schools were more liberal, the friend concluded. Few rules existed to restrict Bora, as he had encountered in Midwestern institutions. On weekends, there was always the bounties of the dark-eyed women on the other side of the border. It was the best of two worlds - literally.

Bora contacted his former high school coach and revealed to him the prognosis given by Epstein in Texas. Believing in his former star, the coach sent a long letter of recommendation, lauding Bora's athletic prowess and included a sampling of films to visually demonstrate the uncanny skills of the young man. Within weeks, Bora received a letter from the Texas

¹⁸ Texas Western University was later to become known as the University of Texas at El Paso, UTEP.

Western University athletic department indicating that a scholarship would be hard to obtain, but he was welcome to come to Texas, enroll, and try out for the team. It was a better proposition than he had received from any other school and he jubilantly discussed the offer with his father.

Again, the Bora practicality emerged. Mr. Bora assessed that the best thing to do would be for him to drive Ken to Texas, stay around while his son tried out for the team, and if he didn't make it, at least he would have

a ride back home. They left on a stormy Ohio morning and drove southwesterly, toward the rolling hills of West Texas and the pending promise that appeared to be the last hope for young Kenneth. If all else failed, there was always the hope of reviving the offer made by the Indians and perhaps attending Hiram, but the Bora pride was stronger than that, and it remained silently in the back of their minds. Ken was now seventeen years old and already his future appeared dim. His friends were already established in colleges or had gone on to life in the service, but he was somehow different. For some reason, the events of his life had always made him different.

It was astonishing to the Boras, as it is with most travelers, that the journey from the eastern boundary of Texas to the western range of El Paso is a trip challenging the remainder of their journey through five states. It seemed that they would never reach their distant goal and it was with a sense of true achievement that they finally saw the city limits signs of El Paso. For a while, they inquired of motel rates, seeking one economical enough for a prolonged stay, for it was uncertain how long it would take for the school to determine Ken's value.

The following morning, Ken reported to the registrar's office and was dutifully informed that he would have to enroll first before he could try out for the team. If he didn't make the squad, he told them, he would not be staying in Texas. It was understood and the papers were drawn accordingly. Yes, they were more liberal in Texas.

Texas Western was an attractive school with a sprawling, pleasant campus. It was unlike many of the compact schools Ken had visited a few months before when the colleges were courting him and bringing him to their campus, boasting of all that they could offer. When his academic records had been examined, however, it was revealed that they could offer

him everything but a scholarship, the thing he needed most. Always, they would explore the possibility of tutors and finally recommend a junior college that would qualify him within two years. Texas Western would be different. Somehow he felt it.

When he reported to the athletic department, the head coach of the football program seemed pleased to see him, saying that he had received the advance information and films from his high school coach. It would, however, be difficult to get a four year scholarship. He would have to really be something to receive one. The team already had a quarterback and it was unlikely that Bora could displace him, but they were lacking in linebackers. The high school coach had stated that Bora played quarterback on offense and linebacker on defense, and it was the latter information that had prompted the coach at Texas Western to respond to Bora at all.

"Looks like you're still weighing in at about 200," the coach observed and Ken nodded with a polite, "Yessir."

"You'll need a little more meat that that to make linebacker," he opined. "This isn't high school ball down here. The boys hit hard. Two hundred isn't much. There's running backs down here who weigh thirty pounds more than that."

Kenneth smiled. "They won't run past me," he promised.

The coach instructed him to report to the equipment manager and check out some gear. The young man had undergone a physical examination in Ohio, so all the NCAA rules were covered. "Put on some pads and let's see what you can do," the coach ordered.

The locker room was a garish yellow with slogans plastered on the walls. WHEN THE GOING GET TOUGH, THE TOUGH GET GOING. WHEN IT GETS TOO TOUGH FOR EVERYONE ELSE, IT'S JUST RIGHT FOR ME. THERE'S NO SUBSTITUTE FOR VICTORY. Ken smiled with the sight of them. The coach had said that college ball was different from high school, but all the slogans had remained the same.

Once he had suited up, he jogged through the ramp towards the practice field. The Texas Western team was known as the Miners, and he could not help but wonder why. It didn't look like mining country. All they had seen en route was endless fields of cotton.

"Middle linebacker," ordered the coach, slapping him on the rump. "Get out there and show me something."

At the coach's signal, eight consecutive running plays came up the middle. Eight times Kenneth Bora tackled the runner, never giving him time to cut through the hole or display a shoulder fake that might have fooled someone with less talent. Eight plays for a total of three yards.

"Jeeeesus," gasped the coach. "Get that boy on paper right now!" Kenneth Bora had his four year scholarship.

In his freshman year, the Miners compiled a miserable record while Bora sat on the bench. It was the "red shirt" policy of most schools prohibiting freshmen from full participation. The young man who had been named "All League" in Ohio was now a rarely-played substitute, and the role was not pleasant to his competitive spirit. He wrote letters to his father and received, in turn, messages telling of the value of patience. He would wait, he resolved. Next year, it would be different.

The following year was different. The Miners established a horrendous 0-8-2 record and the head coach was fired. It was apparent to wisened football fans that the Miners had sufficient talent to win games, but lacked sound coaching skills. The administration lured the prestigious Bobby Dobbs from the Canadian Football League to take over the helm as head coach. Immediately, Dobbs installed the pro system and the Miners began winning games. Bora was an instant standout. Teams soon learned that they could not run up the middle and with the outside available to them as their only route, the opponent's ground game was virtually shut down. Fans were spelling "defense" B-O-R-A.

Texas Western ended the season with an 8-3-0 mark and was named to play in the Sun Bowl that year of 1966 against Texas Christian University from the Southwest Conference. The oddsmakers had made TCU heavy favorites, largely due to their strong running game that had given them upset victories throughout the year. Texas Western might have a sterling defense, but they were, after all, a small school, hardly in the ranks of anyone from the Southwest Conference.

The shocking Texas Western victory, 13-12, over TCU made headlines across the nation. Bora had played a key role in the victory and it was apparent that there was the touch of greatness about him. Yes, greatness. That was the word coaches used to describe him. By his junior

year, he had engaged in a weight-lifting program that had brought him to a powerful 247 pounds. Now, he was a legitimate linebacker, one daring any runner to transgress his terrain.

The following year was one marked for even greater success for Texas Western. Now, they had established their program with their victory in the Sun Bowl. Bora would be returning with still another year remaining of eligibility. He was bigger now, and stronger. He was participating on the school's wrestling team and had defeated the New Mexico State champion in the final minute of their match. In mat competition, he was undefeated. With Bora at linebacker, the Miners would repeat their accomplishments of the year before, of that everyone was reasonably certain. By the fourth game of the season, however, it was apparent that the teams on the Miner's schedule had devised a new strategy. Double block Bora. By the end of the season, Ken had dislocated his shoulder twice, had undergone knee surgery, and was scheduled for a second surgery on the ailing leg. Again, he was delegated to the bench for much of the season.

By the end of Bora's senior year, he still needed a semester to graduate. Without sports, however, his time was consumed by books, and that was not the strong suit of his nature. He felt he could still play foot ball, but knew that he would not have another chance. His eligibility had been exhausted. All he could do now was concentrate on his attempt to graduate, and that was the lowest of his true interests, a period totally dedicated to study. He could not keep from recalling that a scout from the Cleveland Browns had once contacted him and he kept wondering if he could still make a professional team. He was big enough, and strong enough, and it seemed that the only other thing he needed was a chance. He wrote to the Browns and received an invitation to attend try-outs.

Once he had returned to Ohio, there was a revitalization of his spirit. Not only was he home, but he was competing. Bora thrived on competition. The workouts progressed to the two-a-day stage and with the posting of the cuts, he held his breath and sighed deeply to find that his name wasn't among those being dismissed from camp. He was still with the team, and there was but one cut remaining. It was as close as a rookie could get, and he was pleased with himself and more confident than he had been since reporting to Cleveland.

If anything, Bora tried too hard. He hit with too much force and displayed a vicious nature that made each play the final act of survival, the very struggle for existence. It was that animal instinct that had kept him among the remaining rookies in 1967, but it was also that killer instinct that was to end his football career. With a gut-wrenching tackle he felt the shoulder sag and the sharp agony stabbing into his arm pit. It was three days before the final cut. He was helped onto the examination table and confronted by the team physician. "I've looked at the x-rays, Ken," the doctor said reluctantly. "You've given that shoulder a lot of abuse. It's another dislocation. I don't know if we can pull it back again. If we do, I doubt that it'll hold. I think you'll be here again and maybe it'll be worse. It boils down to this, son," he sighed. "You can continue to play football and maybe dislocate the shoulder again. That'll make four times. I doubt very seriously that it'll stand that. I think you'll lose a helluva lot of mobility for the rest of your life. I don't usually make recommendations to any of our boys, but in your case, I want to tell you that you're a young man with a lot of life ahead of you. I don't think you want to spend it with an arm that you can't move with full mobility. I just don't think a game is worth it."

"I'm gonna' be cut, right?" asked Bora.

"It'll at least be the taxi squad. Probably a cut. But if you go out there and try to show them you can handle it, I can guarantee you'll be back here and there'll be surgery. I've told you the rest."

Kenneth Bora sighed and nodded. His football days were over.

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For a while, Bora remained in Ohio. He worked with his father and sought some place in the scheme of life where he felt he could fit. He wanted to earn money and was accustomed to work, but the money never came fast enough, or lasted long enough. It wasn't the kind of life he wanted, and he knew that there had to be another place, another chance, that would give him direction. At a bar one evening, he attempted to stop two brothers from berating a girl patron and wound up in the alley, his fists raised. His brother joined him, making it two-against-two. By this time, the powerful right hand of Ken Bora was known within the region,

for he was not a stranger to brawls. A crowd gathered to witness the confrontation. Many had seen the quick right dart forth, straight and powerful, rending a foe unconscious while Ken Bora returned to a bar to consume a few more beers. Fighting was not his desire, but it seemed to be forced upon him by those disliking his size and his confidence that sometimes appeared to be arrogance.

The larger of the brothers faced him and Bora shot his right forth, striking the man on the nose, directly between the eyes. Blood flowed from the man's ears and nose and Bora knew he had given his foe a concussion. It was enough to cause him to fear. As the man slumped to the earth, Ken witnessed his brother sag clumsily and heard someone gasp, "God God, he stabbed him!"

This was not the brawl Bora was accustomed to. He was used to a foe surrendering with the force of a single punch and with that, the conflict was over. Now, his foe was struggling to his feet and Bora thought, "My God, if that didn't stop him, what will?" He gave a quick glance toward his brother, watching him slowly rising to his feet. It was obvious that the wound was serious, for blood was staining his brother's shirt and now Bora panicked, striking out again and clutching his foe in a bear hug. The instincts of his wrestling days returned to him. He would squeeze the breath from his assailant and render him helpless. He screamed with the effort and listened as the crowd gasped again. The man within his grasp was slicing Bora's back with a razor-sharp knife. Blood now flowed to the earth and he released his grasp, knowing that the struggle would have to be ended soon, for the loss of blood would weaken him too much. He struck out again, feeling the bone crumble beneath his fist. Finally, the crowd began to respond, Bora had his opponent on the ground, his knees upon his arms, pounding his face to pulp. "For God's sake, you'll kill him," cried a friend, pulling Bora away and screaming for the brothers to get in their car and leave. They gladly obeyed, but in his fury, Bora pulled them again from the car, striking forth again and again in his anger. It required several men to contain him until the car faded from sight.

At the hospital, Bora received two hundred and seventy stitches while his brother was treated for the stab wound that had been more superficial than they had believed. The brothers, meanwhile, had received treatment and had gone to the district attorney, wanting assault charges filed against

the Bora brothers. In retaliation, Bora cross-filed assault charges against the brothers, knowing that he had the sympathy of the crowd on his side as potential witnesses. With time, the charges were dropped, but remained on Bora's record.

It was shortly after Bora had regained his strength from the vicious encounter that he restored a friendship with an old high school friend. Like Bora, the friend had tried out for a professional football team and had failed to make the final cut. He had hoped to become a member of the Green Bay Packers, but had joined the ranks of those talented young men who had fallen slightly short of the NFL standards. They spoke frequently of their dreams and failures and found that they shared the same disillusionment with their present plight. Together, they decided that the greener pastures rested in California and they would travel there in pursuit of whatever fate held in store for them.

Together, they traveled toward California in Bora's 1958 Thunderbird until it ran out of gas in the orange orchards of Southern California. For two weeks they slept in the car, eating oranges to survive. The only work they could find was temporary jobs through Manpower. Bora gained employment working for a contractor, swinging a sledge hammer eight hours a day, breaking concrete at \$1.25 an hour. Of that, he had to pay one half to Manpower, which meant he was laboring for the grand sum of 62.5¢ per hour!

It was the Bora philosophy of hard labor and perseverance that permitted him to endure the times. It was these same qualities that led the benevolent contractor to take him aside and tell him that he had noticed that the young man was a hard worker, big and strong. It was obvious that Bora was suited for better things and the contractor suggested that there were some attorney friends of his who were looking for someone of Bora's stature to start a process-serving business. It was all Bora needed. Immediately, he contacted the attorneys and suddenly found himself functioning in the multi-roles of serving subpoenas, researching legal documents, and conducting stake-outs at the lawyer's request. As always, he performed well and impressed the attorneys greatly.

Astonishingly, within six months, Bora was living in a new home, was operating his own business, and had a growing savings account. Finally, life was rewarding him and giving him the direction he had sought. His

friend had long since given up on California and returned to Ohio, but the die-hard attitude of Ken Bora had prevailed and he was again content with his life. Now he could accumulate the money he had sought and could look forward to the life style he had always envisioned as his own.

As Bora progressed, he was certain that he possessed yet another blessing. Many young men of his age were being drafted for service in Vietnam. On five occasions, he had been called to the draft board and rejected for the ancient shoulder injury that had denied him his football career. It was obvious now that he was not suited for military duty, so he could pursue his business and view unblemished horizons.

At the height of his budding career, Kenneth Andrew Bora was again summoned to the Army Induction Center for re-evaluation. It was an annoyance to him, for he had already been denied so often that further examinations seemed an exercise in futility. Even so, it was an obligation to respond and he reported as ordered.

"You're great Army material, son," the enlistment officer advised Bora, and Bora maintains unto this day that he was never given an induction physical, that he was conscripted by force and placed under house arrest amidst his violent protests. He was now a member of the United States Army. Within weeks, his business failed due to his absence; he lost his automobile, being unable to make the payments on Army wages; his girlfriend withdrew his money from his bank account and fled to Las Vegas with one of Bora's best friends. Yes, life always took strange twists for Kenneth Bora.

In the months that followed, Bora continued his protests that he had been declared physically unfit for military service. Yet, it was a difficult posture since it was apparent that he could keep pace with the Drill Instructor during five mile jogs and complete the obstacle course with little difficulty-. He was lean and strong and to allege a physical disability seemed more than unreasonable.

When it was learned that he had operated an attorney's service business, Bora was assigned to the Administration Company as the head clerk. There, he could compose his letters to personalities such as United States Attorney General Robert Kennedy, outlining the Shanghai tactics of the California induction center. His pleas fell on deaf ears. Again, his athletic prowess served him well. The Administration Company had a football

team the year before that had won the Division championship. This year, they were not even able to field a team. Bora took command of a rag-tag group of recruits, blended them into a working unit, and led them on the gridiron in military sports combat. He operated as the coach and the quarterback and the company was able to repeat as champions, solidifying Bora as the athletic director of the group. He was now transferred to an assignment listed as "company carpenter," but spent his time in the gym, honing his skills.

He was stationed at Fort Hood, returning again to Texas, the scene of his athletic glory. On a lesser scale, it had been repeated while in the service. At Fort Hood, he again wrestled and kept his undefeated record through a long series of matches against the top grapplers of the region. The company then formed a fast-pitch softball team that starred Bora as its catcher, and he led the team in hitting with an astounding .560 average.

Now that his time was filled with total leisure, Bona recognized that the entire military routine was a waste of time. He was not achieving any of the things he wanted and the moments of his life were being dedicated to meaningless activities - fun, but meaningless. By night, he would exercise his permanent pass and enjoy what night life was available to him. It was on one such occasion that he met Jeannie Odenbach, a winsome, lovely girl with eyes blended to a soft elegance. She was easy to talk to and Bora enjoyed being with her. It was obvious that she enjoyed him as well, and they met frequently, always moving closer to the moment they knew was to come.

"I don't want to get you pregnant," he told her finally, when logic was the only force countering their instincts.

"Don't worry," she hummed. "I can't get pregnant." Thirty days later, Jeannie Odenbach was tearfully informing Bora that she was with child. Something had to be done. He had to marry her.

"I can't marry you!" he snapped. "Look at me, I'm struggling on Army wages and I can't support a wife and child, even if I wanted to'. I'm broke. You're broke. That's no way to start out a marriage'."

Jeannie was adamant. With tears and moans she related the absolute need to give the child a name, to legitimize the infant with a marriage. The same sense of honor that had led Bona to receive 270 stitches in the

alley brawl in Ohio now softened his resolve and he submitted. "I'll marry you for one day. Just to give the baby a name, I'll do it. Okay?"

She smiled slightly and nodded. It would be done.

Kenneth Andrew Bora took a wife on a Sunday morning after she had purchased rings for both of them. He was sullen and visually regretful. But his word had been given, and it would have to be done. It was the penalty for his lust, and he was strangely disappointed in himself.

Following the ceremony, Ken took his bride to her apartment and left her there. He drove to the neighborhood bar where they had met and sat drinking beer, chatting dejectedly with the barmaid. After the sun had lowered and the crowd began to gather, Jeannie walked into the bar, inquiring if he wasn't going to "come home" for supper.

"What?" gasped Bora. "I thought we had a deal. Married for one day, that's all."

"Are you coming home for supper or not?" she demanded. "Hell, no!" he snapped. "I'm not coming home at all!"

Jeannie Odenbach shook her head, blinked away her tears and returned to her apartment where she swallowed a bottle of sleeping tablets. A girlfriend, wanting to congratulate her on her marriage, stopped by the apartment in time to have her rushed to the hospital where an emergency team worked feverishly to save her life.

Jeannie's parents located Bora and took him to the hospital where he was requested to have counsel with the physician before visiting his wife. Wife? he thought, yes, I suppose that's what she is.

"We have a serious problem with Mrs. Bora," advised the doctor. "She seems to have absolutely no remorse for what she'd done. She speaks of trying suicide again once we release her. That's why I thought I'd better speak with you before you go in there to see her."

Bora frowned. "What are you going to do?"

"It's not what I can do, but what you have to do if she persists in this attitude, Mr. Bora. We're talking about two lives. She's pregnant and suicidal. If she insists on another attempt on her life, perhaps commitment should be considered."

"Commitment?" gasped Ken. "You mean a mental hospital?" "Yes, that's exactly what I mean."

"Damn," Bora moaned.

"You visit with her first and see if you can't change her attitude about things. If you see you can't then maybe we should have another talk."

Bora entered the room and stood at the foot of the bed. Plastic tubes protruded from Jeannie's nostrils and her eyes, always lovely, were glazed and empty. Mrs. Odenbach left the room, touching his shoulder as she went.

"Hi," he offered as a greeting. Jeannie nodded.

"What the hell did you think you were doing?" he asked. She smiled slightly. "Next time, I'll do it right."

Bora twisted his face in anger. "There isn't gonna' be any next time, Jeannie. Remember that I'm your husband now. Not for long, maybe, but right now, I'm your husband. I can sign the papers right now to have you committed to a mental hospital and by damn I'll do it if you don't get your act together!"

Her eyes widened. "A mental hospital? An insane asylum? You'd lock me up in one of those?"

"You're damned right I will if you don't start talking some sense. I don't want to hear any more of this suicide bullshit, that's the first thing." Tears began to gather in her eyes. "I couldn't handle that, Ken," she moaned. "Oh, God, not an asylum!"

"Then promise me you won't try this crap again?" Jeannie nodded. "I won't. I promise."

He did not see her again until ten months later. He knew that she had been released from the hospital, for he called frequently to check on her progress. He had returned to the doldrums of military life and was perpetually bored and aimless, always seeking a way to gain a discharge from his khaki purgatory. It was after he had applied for an emergency leave to visit his ailing father who had injured his back severely while working, that the telephone rang on his desk and he secretly prayed that it would be the Commanding Officer, advising him that his request had been approved. Instead, he heard a familiar voice, light and easy, like sleigh bells bouncing on silk. "Ken?"

"Jeannie?"

"Yeah, how are you?"

"Hey, okay. How about you?"

"I'm fine. I'm in Temple, Texas. Do you know where that is?" "Sure."

"Well," she said falteringly, "I just wondered if you'd want to stop by up here and visit with your daughter."

Bora smiled. "It was a girl, huh?"

"Yeah, I named her Destry. Destry Ann Bora, just like we agreed, remember?"

The following weekend, Bora traveled to Temple where he located the hotel Jeannie had indicated as her temporary address. For a while, he simply stared at the child.

"Damn," he muttered, "she looks like me." "Yeah," giggled Jeannie, "I thought so, too." "Maybe she'll grow out of it, huh?" he asked. Jeannie swallowed hard. "I hope not, Ken."

Bora nodded slowly, touching the infant's cheek. "See ya'," he said with a slow nod, and turned to leave the room. He was never to see Jeannie Odenbach again.

On February 13, 1970, Kenneth Andrew Bora was granted a hardship discharge from the United States Army. It had been determined that the condition of his father demanded his presence at home. It was Friday the thirteenth, and Kenneth Bora considered it the luckiest day of his life.

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For two weeks, Creig Matthews had wandered about the city. He had frequented the bars and had attempted to make his face familiar. Most frequently, he patronized the Point 21 to gain a glimpse of Bora. He could only guess that the man he suspected to be Bora was, in reality, the man Hardy had targeted as their prime goal within the investigation. He had seen a mug shot of Bora from his Dallas arrests, but that wasn't conclusive in the midst of a boisterous, dancing crowd. For the time being, he would remain silent, wanting only to have the time arrive when someone would ask, "What's your name?" Then, he could reply warmly, "Jim. Jim Myers."

"You're going to need a cover name," Hardy had informed him. "We don't want any ties being left. Choose a name and let me know what it is."

"Sure," Matthews had answered. "Let's make it Jim Myers."

Hardy had nodded. "Jim Myers, that sounds good."

The Texas Department of Public Safety had then been contacted and informed of Matthews' alias. Within hours, they had issued a driver's license in the name of James Myers and Matthews had emptied his wallet of any references to his true identity. From that point on, he would be Jim Myers in every respect. Jim Myers, the footloose, aimless frequenter of Tyler's night spots.

It was a stroke of fortune that led Hardy to notice an ad in the "Help Wanted" columns of the Tyler Courier-Times. "Wanted, bar back for local nightclub. Apply in person." The address was listed and Hardy quickly opened the telephone book. Yes, by damn, it was the Point 21 Club! Quickly, he contacted Jim Myers, the skillful operative seeking an avenue to get to Ken Bora.

"Get your ass over to the Point 21," Hardy advised. "They're looking for a bar back."

"What the hell's a bar back?" asked Matthews.

Hardy grimaced. "Hell, I guess it's someone who works in back of a bar."

Creig Matthews had operated in the underworld long enough to know that he was not qualified for any job within a nightclub. There had to be some special factor that would make him more attractive as an employee than the others who would surely be applying for the position. There had to be that "kicker." Instead of reporting quickly to the club, he requested a meeting with Hardy.

That night, Hardy met with Matthews in the Vice Division office and listened to the young narc explain his position. "I need something that will really get me in. It won't be enough for me to just go in there and say

I need a job. There'll be other guys with experience and I'll be out in the cold. I have to have something going for me that makes me special." "Okay," agreed Hardy, "what's it going to take?"

Matthews thought for a moment. "I need a letter. A letter from some insurance company or something like that saying that I'm going to be coming into an inheritance."

Hardy shook his head. "No, I don't think so. If you flash something like that, they'll assume you don't need the job and they'll give it to someone who does."

"No," Matthews countered. "It won't work that way. I'll use the letter to say that I'm coming into some money and I want to open a club somewhere. It's something I've always wanted. I'm going to have the money to do it, but all I need is the experience. I need the job in a club, any job, to gain that experience. That way, they won't worry too much about paying me a low wage. At the same time, I'll say that I want to open a club in another city so that they won't look at me as future competition. If Bora's any kind of manipulator, he'll get wind of the story and want to give me some tips so that maybe he can get a piece of the action somewhere else, wherever it is that I plan to open the club. See what I mean?"

Hardy pursed his lips with a slow nod. "Yeah, it makes sense."

"It'll also take me out of the realm of the typical flunky," Matthews continued. "It'll give me a little stature and if the word gets around that I've got some cash, maybe some of the dealers around town will lean on me."

Hardy repeated his nod. "Okay, I can line up the letter. You'll have it in the morning." He cocked his head with thought. "Yeah, I think that this might just work. I'll get the letter for you the first thing in the morning."

Matthews first applied for the job over the telephone and waited two days for a return call. When it did not come, he applied in person and was surprised and disappointed that Bora had not conducted the interview himself. Instead, a partner in the club with the title of Manager, Jack Keith, received him and considered his application. Bora was nowhere to be seen, and Matthews gave the establishment cursory examination, as if he would immediately detect the sins Hardy claimed dwelled there. It was an impressive place with a dance floor complete with flashing lights. "Where do you plan to open a club?" asked Keith.

Matthews smiled politely. "I'm looking at Gregg County," he replied, indicating the county bordering Smith County's limits.

"That'd be a good spot," Keith agreed. "It's more wide-open over there."

Matthews agreed, folding the letter that had impressed Keith and shoving it back into his pocket. "I just need to learn the ropes of how things operate and how to cut corners."

Keith laughed. "You can sure as hell learn that here, and you'd have

one helluva teacher. "C'mon, I'll introduce you to Ken."

In that moment, Matthews knew he had the job. Certainly Keith would not take the trouble to introduce him to Ken Bora if he hadn't intended to put him on the payroll.

Bora was in the rear office of the club, sorting a stack of invoices when Keith knocked once on the door and opened it. Briefly, he introduced Matthews as Jim Myers and explained that Myers wanted to learn the basics of operating a club so that he could invest an insurance settlement to open a club in Gregg County. Bora grinned as he crunched Matthews' hand. "Save your money and buy a farm," he quickly advised with humor. "This is too damned much hard work."

Matthews returned the smile. "I'm used to work," he advised.

"Well, you'll get plenty of it here. Did you tell him what a bar back does around here?" he asked of Keith and the Manager nodded. "If you can stand it, then maybe you'll have the stuff to have your own place," assessed Bora.

Matthews utilized the time of the brief meeting to form his typical impressions of the man. He was impressed with Bora physically. There was a hint of stomach bloat, but the physique was testimony to a particular strength, of tremendous power. He estimated Bora's weight at 250 and viewed the flexed muscles of the jaw, a signal of inner tension. Bora's eyes could rivet solidly upon anyone speaking to him, but not for long periods of time. To Matthews, that indicated that Bora was a thinker, his eyes moving away with the introduction of a new thought. The habit gave the distinct impression that Bora was never really interested in what one was saying, but was politely present, always filtering the highlights of the discussion while concentrating on matters of greater importance. A glass of bourbon rested on the desk, and Matthews noted the tell-tell rings on the surface of the desk; evidence that Bora had partaken of a number of drinks.

By all physical appearances, Bora could be the dangerous, wily criminal portrayed by Willie Hardy. If the man would don a pin-striped suit, one could fully expect a machine gun to be concealed somewhere in a violin case. He had the visual appearance, but somehow, the gut reaction wasn't there. There wasn't the hard-hitting feeling that Bora was dirty. Perhaps he was merely a man with the potential for violence, but that wasn't enough

to justify the case Matthews had been instructed to make against him. If Bora was dirty, he was also slick. It would be a very difficult task, indeed, Matthews decided, but the challenge was enough to urge him on.

"We want to get enough on Bora to take away his liquor license," Hardy told Matthews that night when the narc informed him that he had been hired at the Point 21. Hardy was elated with the news and excitedly told Matthews of the immediate goals set before him. "One of the main things is that we have to get the liquor license. We have to shut down his operation and that'll cut him off from a lot of the users. We have to get that part done, so keep your eye out for any infractions. If you make a buy off of him, make sure that it's inside of the club. That way, we can kill two birds with one stone. We'll make a drug case and it'll be a violation that'll pull his license."

In the days that followed, Matthews witnessed some minor infractions, pot smoking in the parking lot, and had jotted down license numbers for future references, but he had made absolutely no inroads into the hard drug traffic within the city. But now that he was working at the Point 21, he knew the results would follow quickly. There, he would be in the mainstream of Tyler's youth and would be in a position to gain confidences and overhear much valuable information. To the patrons of the club, he would be only Jim Myers, the club flunky. That didn't bother him, for he had the documentation necessary to rise above that alleged stature. While Hardy had believed that the letter from the insurance company had been a ploy to give motives to his hiring, it was also meant to give Jim Myers some status within his prospective peer group, and that was very important to his manhood and ego. If the Assistant Chief had ever suspected such a motive, Matthews knew the letter would never have been delivered.

The letter itself was better than Matthews had anticipated. Hardy had provided it as promised, but it was more creative than the simple approach that he was coming into an illusive inheritance. It was quite formal, indicating that James Myers was to receive compensation termed as a "large settlement" for an oil field accident he had suffered some time earlier. It pleased Matthews and provided him with the personal stature he had wanted. Not only did it give him impressive introductions, but it suggested that he possessed cash and that would provide answers for the

source of his money when conducting drug deals. Yes, it had been a good plan, satisfying a multitude of needs, and he was pleased with himself for having conceived the idea.

In retrospect, one must wonder what would have happened if Jack Keith had decided to hire someone else? One must inquire what the results might have been if the job vacancy for a bar back at the club had not occurred at that particular time? It is interesting to weigh the odds of someone within the police department noticing the ad within the vast maze of advertisements within the classified section. The precise timing of all the coincidences and the bizarre results were enough to lead Matthews to believe that providence certainly endorsed the plans of the Tyler Police Department, and with the news that he was now an employee of the club, he felt comfortable and confident indeed.

Working at the club, he found his duties mundane. He cleaned tables and emptied garbage. He scrubbed floors and polished brass. He stocked the bar and carried the buckets of ice, always smiling at the patrons and making certain that he was noticed. He would smile broadly and offer a warm greeting whenever possible. He would sometimes pause to extend a hand and introduce himself as the newcomer, Jim Myers. He was really impressed with Tyler, he would relate. It appeared to be a city of his liking; a city with lots of action. During one of his breaks, he found an occasion to sit at a table with two patrons, Johnny Allen Green and Randy Abbott. The conversation blended well and Jim Myers turned the course of the discussion to explain what he was doing at the club. He was "learning the ropes" and certainly didn't need to work at all. He had plenty of money. He displayed the letter and the two young men were impressed. Jim Myers, the smooth-talking man with a flair for being impressive. It was all that was needed for the denizens of Tyler, victims of their own sheltered surroundings that had insulated them from the likes of Creig Matthews.

With the passing weeks, Matthews finally grasped a few opportunities to encounter Ken Bora. He had taken the first chance to relate to Bora how much he enjoyed working at the club. He counterfeited an excitement in telling how much he had learned about club operation in such a short period of time. Such meetings were always hurried, as if by Bora's design. But the narc was persistent, always having one more important tidbit to relate.

"Hey, Tyler really seems to be a lively place," he offered with his usual smile.

"Yeah, it is," replied Bora.

Matthews nodded, leaning closer as if sharing a secret. "I've seen some of these kids come in here as high as a kite," he observed.

Bora nodded solemnly. "You always have those," he remarked. "Yeah, well, do you know where a guy can score, boss?"

"Hell, man," grinned the burly Bora, "they're everywhere. If a guy can't score in a place like this, he needs to take a second look at himself." Matthews frowned with the answer, wondering if they were talking about the same subject. "Yeah, but I don't know any of them."

Bora sighed with resignation. "You just introduce yourself, tell 'em when you get off work and that you'd like to take them somewhere. You shouldn't have any trouble here. Christ, there's enough pussy in this place each night to last a guy for a year."

"Hey, man," Matthews said, holding forth his palms in a gesture of halt. "I don't mean the broads. I don't have any problems there. I mean, I want to score, y'know?"

"No," frowned Bora. "I don't know."

"Coke, pot," replied Matthews in a hoarse whisper.

Bora's grin disappeared. "I don't mess with any of that shit," he replied, and walked into his office.

Matthews made a quick assessment. Either Hardy was right and Bora was so cool that he had to be a professional, or he was as straight as hell. He could not immediately determine which was true, but resolved to himself that he would soon find out. At least, he had made the first real move. Bora would now know that Jim Myers used and was in the market. Perhaps the coming days would provide something different. If Bora was really a dealer, he would be spending his time now looking over Jim Myer's employment application. He would make a couple of phone calls to check him out. That would be alright. Everything had been covered. If Bora was really cool, he would be on the telephone right now. After all, he had a live customer with money on the hook. That was the fertile ground of all dealers. Yes, Matthews was reasonably sure that Bora was on the phone.

With a glance at the clock, Matthews discovered that he was now

working overtime and he punched his timecard and said his goodnights. Draping his jacket over his arm, he went to the parking lot and turned the engine of his car. His mind was still reviewing the brief encounter when he drove upon Loop 323 eastward, toward Strawberry Ridge. Once there, he poured a beer and pondered a few minutes longer on the discussion. Could it be true? Could it be that the intelligence that Hardy had on Bora was totally wrong? Unlikely, he decided. After all, there had been reports from the Dallas P.D. and the sheriffs people down in Ector County. No, Bora had to be dirty. He could be certain of that when reviewing all the facts. The man was just tough, it was as simple as that. He would be harder to break, but it would be done. Tonight had just been the start. With time, he would tie Bora up in a nice little case. The statement became a promise he was making to himself.

Matthews dialed the phone and spoke for twenty minutes with Kim Ramsey in Plano, Texas. Kim had worked for him in undercover operations in Plano and they had come to know each other well. At first, they had dated and had finally become lovers living together. Now, she was attending college and working for the Plano Police Department at the same time. To Matthews' mind, she was a sharp chick. Good looking, smooth, a good student of his teachings, and someone who knew the ropes. For the most part, Kim had been his protege. He had taught her the "tricks of the trade." It wasn't enough to make a case, he had instructed her, you had to make numbers. Arrests didn't count. Convictions were the only measure of a good narc. Each case had to be constructed as if it were a building. Introductions were the foundation, gaining trust was the framework, and an arrest was the roof. You couldn't close the door on the finished building until you had a conviction. It all had to be neat and tidy. Quick and precise. It was the orchestration of everything he had learned in his years as a narc. Now, Kim had learned the lessons and little shocked her. She was a pro in the ranks of the narcs. She could make a case on a character and then relax at home and smoke the evidence. Yes, she knew the workings of the narc's world.

As he finished his beer, he thought of Kim and wondered of the true nature of his feelings. There had been the recitation of the typical words, "I love you," but they had been said so often in the content of Creig Matthews' life that he could not help but wonder if he truly knew the

meanings such words implied. He had offered those words to Joyce Edwards in Monahans, Texas not long before they were married. He had repeated them when she presented him with a son. He had then come to realize that whatever love was, it was not what he felt for his wife on the day in 1972 when they received their divorce.

It was in January of the following year that he repeated the words again to 18-year-old Patricia Diane Walker in Plano, Texas. Again, with time he came to question his feelings and that union ended in divorce as well.

Now, there was Kim. Somehow he could not associate his emotions with what had been felt before. The dimensions of what he had once felt were somehow beyond his ability to recall. He only knew that she was somehow special, and perhaps that was enough. They were now almost 100 miles apart and she had sounded lonely. In Plano, she was attending college and working for the Plano Police Department. Surely her days were busy, but she had sounded lonely. In the thought of her, he realized that Kim Ramsey had a certain quality, one that would make her very difficult to forget. She had a quick, inquiring mind and a well-balanced attitude that kept her feet on the hard, solid earth of realities. In many ways, she resembled him in her nature, and perhaps that was the core of his attraction. How long it would last was quite another matter.

During the telephone conversation, Kim had stated that she planned to take a day off work and visit Creig in Tyler. That had come as good news to him and he was eager to see her again. That surprised him, for he was not overly emotional. Yet, he felt the pulse of excitement with her announcement and knew that he truly anticipated the time they would share together.

With a sigh, he dismissed the image of her and returned his thoughts to Ken Bora. Bora, the elusive character who had been forced into the center ring of the investigation by the edicts of Willie Hardy. His mind recreated the image of the man and he knew in that recollection that Ken Bora would be a tough nut to crack. There was something taunting about the man, as if some secret dwelled beneath the veneer of his image, forever hidden but eternally real. Maybe he was a kingpin of organized crime, Matthews reasoned. If so, this job could be the hallmark of his career. Secretly, he hoped that it was true, but something in the canyons of

his gut told him that it was not.

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After his return to Ohio following his discharge, Ken Bora worked on construction jobs as a carpenter. He had learned the basic skills from his father and was more than competent to pursue the craft. With the passing of time, however, his brother proposed that they enter business together, forming an independent contracting firm. Bora's sense of independence was stirred with the idea and he agreed readily. For a while, they prospered until it became apparent to Ken that he was doing all of the manual work and his brother had elevated himself to an executive role. The arrangement was not palatable to Bora, but it was, after all, work. He needed to be productive and stoically continued within the strange arrangement without excessive complaints. He was willing to carry his load as long as necessary, for he believed in fulfilling his commitments. It was this same sense of loyalty to his word that led him to leave the partnership after an Army buddy called him from Amarillo, Texas.

Jackie Kirk had called in the fall of that year, 1971. Kirk was a smooth-talking renegade to most social standards. His wit and verbal skills could bend the most rigid postures and bring people to comply with the motives he desired. He had formed an alliance with Bora in their service days when it was learned that Kirk and Bora had crossed paths on several occasions during their civilian lives. They knew many of the same people and the bond of their past experiences had led them to a new friendship. Kirk had been placed on Bora's football team in Headquarters Company and Ken had assigned him to the position of wide receiver. Kirk was not talented, but he was gregarious, and Bora found that a good substitute for athletic ability. If Kirk could break into the open clearly enough, Bora would pass the ball in his direction and with enough prayers, it was sometimes caught.

"You said if I ever needed you, all I had to do was call," Kirk reminded him.

"That I did," replied Bora. "Well, Buddy, I need you."

Kirk related how he had returned to Amarillo following his discharge

and had taken over partial ownership and control of a theater in the city that had been a rather popular X-rated establishment. The theater had presented soft and hard core porno movies and had enjoyed some success. Kirk, however, had read an article about some men in one of the northern states who had taken over a theater and changed it to an establishment presenting only G-rated films. They were experiencing a surprising success. Kirk planned to duplicate that effort, changing the name of the theater and providing the hungry populace with wholesome movie fare for their children. Surely they would be so grateful for such a Christian and benevolent act that their success would be guaranteed. The only problem was that the theater needed some renovating and Bora had the carpentry skills to achieve that. If he would come to Texas and help, he would be rewarded with participation in the theater's ownership and a job as the manager of the establishment. It sounded like a fine arrangement to Bora, especially since he wanted out of the unfair alliance formed by his brother.

"I'll be there," said Bora. "I made you the promise to help if you ever needed it, and I'll keep my word. I'll be there as soon as I can."

Within months the theater was remodeled with the name changed and was promoted by Amarillo's media as a welcome change in the city's entertainment profile. Newspaper articles provided laudatory comments and the fanfare was significant enough for all those associated with the effort to believe that success would most surely be theirs. It did not take long, however, for the owners and Bora to realize that the new philosophy was not working. The youngsters were destroying the upholstery on the seats and were generally unruly. The patrons were diminishing weekly and it was soon apparent that Amarillo was not ready for G-rated entertainment, regardless of their Christian welcome of the effort and their early encouragements. It was time to take another assessment of the operation and to make some immediate changes if the attempt to succeed was going to have any chance at all. The decision was without alternative. The theater would have to revert to its earlier character, presenting X-rated films and the owners would hope that the old clientèle would respond. Within weeks, the change had been made and the theater was moving toward a profit level again. Meanwhile, Bora worked as the manager, living in the theater during the early weeks of the operation and finally sav-

ing enough money to rent an apartment. He had left a job in Ohio, regardless of its detriments, providing him with a \$400 a week income to Amarillo where he was now receiving less than \$100 per week. It remained, however, clear that Ken Bora had entered a bad arrangement and had suddenly been transformed from a principal in a G-rated theater to the manager of a porno movie house. It was not a reputation he enjoyed, but it was the reflection of his promise and he would keep his word, regardless of the social consequences.

As time passed, Kirk moved southward where he opened another X-rated movie house in Odessa, Texas and Bora finally realized that the agreement he had with Kirk resembled the arrangement he had suffered through with his brother in Ohio. He was again doing all of the work while Kirk was raking the money off the top and forgetting the portion of their agreement wherein Bora would have partial ownership in the theater. It was time for Ken Bora to do something that would provide him with the security he was not finding in his alliances with friends and relatives. He migrated to Odessa to confront Kirk and while there, he managed to open his own theater displaying X-rated films and was finally independent of agreements or promises. He would compete with Kirk and several others, but at least, it was his own enterprise and he was happy with the thought of it.

For a while, the theater did well and Bora began searching for new outlets. He learned that there was money to be made in the sale of softcore magazines, Penthouse, Playboy, Gallery and the like. He opened a small magazine shop and discovered that it, too, provided him with more money than he was ever receiving from his arrangement with Kirk. It was enough to whet his appetite for broader markets and new endeavor and he began making frequent trips to Dallas to seek new avenues of income. A theater in Dallas would do well, he reasoned, and magazine outlets were lucrative beyond his estimations. It was while on one such trip to Dallas that he learned that a man in Odessa who owed him money had been found sitting in his auto, beaten to death. It did not trouble him much. After all, he was not implicated and had been several hundred miles away at the time. Such things simply happened and the fact that the man owed him money was not sufficient cause for him to be implicated. His real concern was that now he would have to write off the debt and it

never occurred to him that he could be considered a suspect in the case. Bora pursued his ambition and opened the Dallas theater and a magazine and newspaper stand that hawked the typical magazines that male fantasizers enjoyed. In the marketplace of Dallas, however, there were certain precautions that had to be taken. Bora viewed the porno films carefully, splicing away the scenes that would make the film hard core and leaving the discarded sections on a special reel where there was the collection of out-takes from all the films he presented. His fare would be generally soft-core and he worked diligently to insure that his features were never in violation of obscenity laws.

When the theater was well into the black, Bora gained the opportunity to present the X-rated classic, "The Devil In Miss Jones." It was listed as one of the hot films on the porno circuit and had drawn large crowds in other cities where it had been presented. Eagerly, Bora purchased the film and immediately tamed it with his editing scissors and the splicing reel. When it suited his tastes for a film watered to the levels of local scrutiny, he advertised it and scheduled it for showing. With the introduction of the film, lines stood in front of Bora's theater a block long. Tickets clicked from the box office with amazing regularity and the theater was filled to capacity with each showing. Ken Bora had struck on a gold mine and he counted his receipts with a happy realization that finally he had found something that would pay off.¹⁹

It was in the midst of the long run of "The Devil In Miss Jones" that Bora was contacted by surly members of the racketeering element who dealt in hard core pornography. "You've been showing our property," they informed him, "and we haven't been getting our cut."

Bora suddenly saw the balloon of his good fortune beginning to deflate. These were not people he could challenge with his typical macho demonstration of fierce indignation. He could not bully these representatives of some Mafia don with his usual ease. They would not bend with the same innate fear as would a barroom patron. They stared at him icily and repeated their charge.

"I bought the flick," said Bora. "I thought that gave me the right to

19 Because of aliases used by those appearing in porno movies, it is difficult to verify local rumors throughout Smith County that one of the feature actresses in "The Devil In Miss Jones" was, ironically, a Tylerite.

show it."

"It does," grinned the spokesman, "but it also gives you the right to make the right payoffs."

Bora examined the men before him. His choices were obviously few. He could continue to show the film with reduced profits, or take the film off the marquee altogether. "I'll stop showing it," he conceded.

"That's good," nodded the man. "That's real good. When?" "Tonight," said Bora. "As soon as the feature's over."

The man repeated his nod. "See that you do. That's a real good move, Mr. Bora."

The theater suddenly returned to its marginal profits and Bora watched another rainbow disappear on the horizon of his success. He was geared to the concept of becoming a success and certainly the film was a clear-cut avenue to quick revenues. The alternatives were less appealing. He could have continued to show the film, opposing the delegation, but that was not the greatest act of wisdom. Bora had known the streets of Cleveland where racketeers operated the numbers game and he had seen the collectors frequent the distribution stores. He knew the concept of protection and the consequences of those who did not cooperate. He was not a local bumpkin. He knew what could happen if he had challenged the authority of these men, and he was confident that he had done the only reasonable thing that could have been done.

In the weeks that followed, Bora became the target of the Dallas Police Department. Whether or not the new zeal expressed by officers was coincidental with the visit paid by the mobsters was a burning question within his mind. Suddenly, they charged him with dealing in pornographic magazines and booked him on a violation of commercial obscenity laws. He paid his bail and returned to his business. Within hours, he was arrested again on the same charge, but reflecting a different magazine. He again paid the fine and remained free. Again, he was booked, and again was freed with a mounting expense to the bail bondsmen, attorneys and the courts. It was again time to move, and he began searching for some haven from the tentacles of the Dallas vice squad.

Prior to the problems he had suddenly encountered, Bora had engaged in discussions with Frank Hillin, a man of second-generation wealth, about opening a disco night spot. There was money in such an

operation, of that they were certain. With Ken's zeal and energy, he would be an excellent manager or "front man." Hillin came from a family deeply rooted in Southern Baptist dogma and didn't want his father to know of any involvement with such an establishment. He would not mind putting up the cash, but he certainly didn't want any overt identification with the club. Ken could be trusted to manage the place well and all that was needed was some expertise and a good location. Hillin called Gerald Tarvin the man who had invented the flashing lights dance floor. Yes, Tarvin would be a good man to advise them and perhaps participate in the venture. A meeting was arranged.

"Hell, yes!" exclaimed Tarvin. "I know a perfect place for a really good club! It'd be a virtual gold mine! The town has nothing like it and the kids have more bucks than most adults around Dallas. Believe me, the only place to do a thing like this is Tyler, Texas!"

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Creig Matthews sat in the vice office waiting for Hardy to conclude a meeting in his office. He had retrieved the Bora file from the cabinet and spied the note on Waterman's desk indicating that he and Lusk were out on an investigative call. He was glad that he was alone. He needed time to review the Bora file and to contemplate its contents without the interjections from others that somehow always colored his feelings about Hardy's prime suspect. He thumbed through the file until he reached the rap sheet and he paused to again summarize Bora's criminal background. Commercial obscenity, he read. The dimensions of the charges disturbed him. Commercial obscenity was a charge too minor to be considered an important segment of Bora's background or character. God knows, a lot of men pant over Playboy. Bora may have sold the magazine or scheduled a porno flick that Dallas vice cops found offensive, but Matthews knew how vice cops operated. If they had it in for Bora, it wouldn't have mattered what he had shown, they would have found some reason to take him in. More often than not, a vendetta prompted an arrest as often as a true offense. Nothing that he saw on the rap sheet indicated that Bora was a bad guy except in the mind of Willie Hardy.

Matthews' finger ran down the list of charges and he smiled softly.

Nothing on the sheet represented a crime any more than did the activities that took place within the Tyler Police Department itself. If Hardy was going to be such an earth-moving moralist, there should be a second look taken around the department and its staff that had officers meeting secretaries while their wives believed they were on investigations. There were cops laying prostitutes while protecting them from vice busts, all in the name of protecting a snitch. There were cops floating through their daily duties while popping pills and somehow, in the midst of all this, Hardy had pin-pointed Bora. It didn't set well on Matthews' intuitive gut, and he pondered the sheet before him, resurrecting the image of Bora.

Near the bottom of the rap sheet, a charge captured his attention. "OBSTRUCTING A POLICE OFFICER DWI." Obstructing a police officer? Perhaps there would be a clue to Bora's attitude about law enforcement and a potential cause for Hardy's hatred of the man. Quickly, Matthews flipped the telephone directory file and punched the numbers of the Dallas Police Department. His question was direct after identifying himself and the Dallas information officer quickly placed the electronics of the metropolitan system into action. Bora had been stopped on Dallas' Interstate 35 in a Jaguar clocked at 105 miles per hour. He had resisted arrest and it had required nine officers at the scene to subdue him. He had sent five of the officers to hospitals for medical treatment. Bora had failed the basic coordination tests to determine drunkenness and had been charged with Driving While Intoxicated - DWI. A fine had been levied and the case closed.

Matthews hung up the phone with a frown. The event may have revealed a propensity for violence, but that was not necessarily the prime ingredient of a mobster of the magnitude portrayed by Hardy. No, he had not learned much of value to support Hardy's position and his frown deepened. The traffic slip was not that one major slip that always occurred in the life of a true member of organized crime. Even Capone had made a slip by not filing a tax return. One such slip had to occur in every criminal career, but with Bora, the rap sheet represented a history that was little more than mediocre. Matthews silently wondered of the accuracy of Hardy's accusations against the burly club owner.

With the sound of the door he turned his head to see Ron Malloch, the Chief, smiling in his direction and greeting him with a "Hey, Creig."

"Hi, Chief," he replied.

"How's things goin'?"

"Slow," replied Matthews.

Malloch sighed deeply and slumped into a chair as if welcoming a moment where he could escape from the pressures of his office. "Well, these things take time," he opened. "We know they take time, so don't worry about it."

Matthews nodded with a grin. "Well, it's taking more time that I thought it would in the beginning. This is a strange town. It takes a lot of homework to get an in with the crowd, y'know? The kids are pretty close knit and it seems like it's hard to stop being an outsider."

Malloch returned his smile. "That's East Texas. Everyone's friendly on the outside, but it's hell getting your way into any inner circle. It's the same socially. Not just with the junkies. It takes a long time to be accepted. Don't let it get to you." Malloch groaned softly as he shifted his weight in the chair. "Damn," he groaned, "I've got bad prostate troubles, painful as hell."

The comment seemed strange to Matthews and he didn't know exactly how to respond. Instead, he grunted a sound of recognition to the Chief's problem and thought of something that might change the subject. "Are you from around here?" he inquired. "All of your life, I mean."

"Yeah," nodded Malloch. "Grew up not far from here. East Texan, just like all those hard asses you're trying to break. I guess that's the real difference. When you grow up around here, you get to notice the differences between you and someone who didn't."

"What kind of differences?" inquired Matthews.

"Hell, I don't know. Differences. Just something you can tell." Matthew chuckled with the vague explanation and dismissed it with a shrug. "I wish I had something really good to report," he submitted. "Nothing on Bora?" asked Malloch.

Matthews shook his head. "Nothing to write home about."

"Like I said, it's gonna' take time," offered the Chief. "We all know it takes time, so don't get discouraged or think that we're gonna' rush you. What we really want is a solid case. One that doesn't have any loopholes he can crawl out of."

"I've got one pretty good lead," said the undercover agent. "I came

across a kid at the apartment where I live -"

"You're not at the motel any more?" asked the Chief and Matthews realized how little communication flowed between Malloch and his subordinate, Hardy.

"No, I moved to the Strawberry Ridge Apartments out on the Loop. Anyway, this kid's a dooper. There's no question about it. I've talked to him some and we've kinda' hit it off. I talked about dope and how hard it was to score around Tyler and he sloughed it off. He said there really wasn't anything to it if you knew what to do. He said he'd lead me around later and show me some of the dealers. He said there was a main one."

"Bora?" asked Malloch with a new interest. "No, it's another kid. A guy named Brunelli."

"Yeah, Brunelli," echoed Malloch. "We have a file on him somewhere around here. Waterman did some work on him at one time. If I'm not mistaken, we've got a pretty good file on him. Seems like Hardy told me that we could make a bust on him just about any time we wanted, but we were waiting for someone like you to come along first. You know, to let the Brunelli bust come along with Bora's."

Matthews frowned. "Why?"

"Hell, because when you bust one dealer, all the rest pull back. We didn't want to endanger our chances of getting Bora by busting Brunelli. It would be trading a small fist for the whale."

Creig Matthews tapped Bora's file nervously with his finger. "Can I ask you something right out, Chief?" he inquired.

"Shoot."

"How sure are you that Bora is a dealer?"

Malloch grinned and moaned again with another shifting in the chair. "As sure as I am that my ass is falling apart with this pain," he groaned. "Why? You having some trouble making a fix on Bora?"

Matthews nodded. "Yeah, to tell the truth, I am."

For a long moment, Matthews examined the man who sat silently in thought before him. Malloch was a bit too pudgy for his own good, his cheeks were reddened with the broken veins that usually foretold of too much booze. He blinked often, as if too weary to be effective. Finally, he shook away his analysis as Malloch poised his mouth to speak.

"You've been in this game on a different scale than I have," began

Malloch. "I'm not a narc and never have been. I'm just a cop. A cop who learns to look over a rap sheet and get a feel for things. With Bora, I feel we have something big here. First of all, he's pretty clean on paper, and that's probably what's giving you second thoughts, right? But we also have the intelligence reports from Dallas. The porno raps and the good chance that he had some organized crime ties in securing the films. Second, we have the reports from Ector County. That's the real clincher. A murder rap waiting for him if they can ever tie him into it. A murder rap! If you go on beyond that, we know there's dope sold in his club. We've had snitch reports and we've had Lusk and some other surveillance people witnessing it. The guy's well bank-rolled, too. You can't overlook that. A guy doesn't open up two clubs without having some heavy cash behind him. That's Hillin. On paper, Hillin's as clean as Bora. But you gotta' look past the paper, Creig. The fact that these guys appear clean in writing doesn't make them straight. It only means that they're slick. Too slick to have fallen for anything big up to this point. Odessa couldn't nail Bora. Dallas couldn't nail Bora. And, by God, I want Tyler to be the one who finally puts a nail on him, the department that does what the big boys couldn't do. You see what I mean?"

Matthews nodded slowly. "Are we shooting straight?" he asked. "Might as well," replied Malloch, "I don't have anything else to do for the moment."

"Okay, so you have the intelligence reports from Dallas. Those reports said that Bora was using a truck to haul stolen merchandise and was making porno movies with young chicks. You had a surveillance team on the truck for over a week and it never moved. You couldn't really make a case on him on anything the Dallas people fed to you. It was the same thing in Ector County. They might say they have a good murder beef on Bora, but where's the indictment? If they had a case, you can bet it would have been filed. If you really want to be objective, you have to admit that they're doing the same thing you are. They're sitting back and waiting for some break in the case with the hope that it turns out to be Bora. Until then, they don't have anything but a lot of so-called intelligence reports that don't amount to any more than official rumor. You might know that there's dope sold in the Point 21 Club, but who saw Bora selling it? See what I mean? Can you see where I'm having my problems?"

Malloch twisted his mouth in thought. "Yeah, I can see it, but to tell the truth, you have to talk to Willie about that. He's the one with all the inside dope on this thing. I just get the reports and from what I've been fed, it appears that Bora's dirty and he's dirty on a pretty damned high level."

"You said we were shooting straight," Matthews commented boldly. "If we are, then I have to say that I really don't want to talk about this thing with the Assistant Chief."

"Why not?"

"That's just it, I don't know. There's something all screwed up there. Hardy's so damned certain he's right, he won't listen to anyone who hints that maybe he isn't. All he wants is Bora. To hell with logic or the facts, he just wants Bora behind bars."

Malloch laughed. "You catch on fast. Hardy's not the easiest man to deal with. God knows I'm more aware of that than anyone."

"It's really more than all of this," continued Matthews. "I'll give you an example. I tried to score off of Bora a couple of weeks ago. Know what he told me? He said, 'I don't mess around with that shit.' A real dealer would have checked me out and come back to me with an offer. I haven't heard from Bora since. He could have checked me out and you know the record would have come back that I'm as dirty as anyone in the drug culture, but he didn't even come close to me. Later, I waited for the right moment. There was this chick in the club. She looked to be about fifteen and I mentioned it to Ken. I said, hey, that chick's underage, isn't she? I made sure he knew I was telling him because I didn't want him to get into any trouble. So, Bora goes over to her and asks for her I.D. He comes back to me and shrugs. Nineteen, he says. She has a driver's license, picture and all. She's nineteen. So, I jumped on the chance, y'know? I said, damn, she looks about fourteen or fifteen. Nice looking stuff, though. Like some of those chicks you see in child skin flicks. Pictures, y'know? So, I said, hey, Ken, tell me, where can a guy score some good kid flicks, young stuff in skin flicks. He looks at me like I'm some sort of vermin. 'For Christ's sake,' he groaned. 'Get back to work. The guy was really disgusted with me. Later, I found the chance to tell him that some guy had asked me if there was any kid skin flicks around, that was why I asked. He seemed to accept it and things appear to be okay between us, but that

wasn't the reaction of someone in the business like everyone around here says he is."

The Chief sighed deeply and frowned. "I know what you're getting at, but there might be another factor to this whole business. Look at it this way. If you were a tailor and you had a contract to produce a thousand suits for Neimann Marcus, how would you react if someone came up to you wanting one suit in a hurry? You'd slough him off, right? Maybe Bora's dealing on a bigger scale. Maybe he doesn't want to deal on a one-to-one level. Whether it's dope or child porno pictures, he might be dealing in a big way and doesn't want to operate with small stuff."

"Maybe," agreed Matthews without sincerity.

"Tell you what, though," offered Malloch. "If you're having trouble communicating with Willie, you just call in directly to me and maybe we can establish a little better rapport. It might make things easier for you."

"I appreciate that," admitted Matthews, "but I don't want to damage my relationship with the Assistant Chief."

"You won't," assured Malloch. "I'll tell Willie it was my idea." "That'll be good." Matthews sighed with a smile.

"And you just keep on doing what you're doing. Don't worry about immediate results. I'm patient and I know these things take time. You just keep going day by day and pretty soon, something'll pop. Maybe it'll be the contact you've made at the apartments. What's his name, by the way?"

Matthews retrieved an address book from his pocket and thumbed the pages quickly. "McGuire," he replied. "Tim McGuire."

Malloch nodded. "That name rings a bell, too." "I'll work on it," stated Matthews.

"You do that," groaned Malloch, pushing himself from the chair. "You mark my word, Creig. We're gonna' have ourselves one helluva drug bust around here yet."

For a while, Matthews felt better about his new rapport with Chief Malloch. He now felt that he had diplomatically sidestepped Hardy and had a higher rank of authority within the department. He now reported to the highest level, and he was more comfortable with the arrangements. Perhaps Tyler wasn't the backward wilderness he had earlier thought. The Chief seemed to display some level of professionalism. Three nights later,

however, he was pouring a bucket of ice into the bar tray when he spied a table near the corner of the Point 21 Club. Chief Ronnie Malloch was seated there with the prominent local attorney, Charles Clark, and both were chatting easily with Ken Bora and Frank Hillin. For Christ's sake, he muttered, what kind of undercover operation is this supposed to be? For a moment, he felt a strange sympathy for Ken Bora. The poor, damned fool, he thought. Doesn't he realize what the powers of this city are about to do to him? But of course, Bora couldn't know, and Matthews dumped the remaining ice into the tray and stalked to a back room of the club where he angrily threw the bucket against the wall.

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*"I get no kick from cocaine,
I'm sure that if,
I took even one sniff,
It would bore me terrifically, too.
But I get a kick out of you."*

Lyrics written by Cole Porter

SNOW IN SMITH COUNTY

It was a time in which fate played cruel tricks upon the denizens of Smith County. The winter of 1977-78 was severe. Ice storms crippled the area and residents were often homebound with driveways too slick to permit their vehicles to slide onto streets. Schools closed. The Texas State Highway Department declared major arteries as impassable and bridges were avenues of death where moisture of flowing rivers formed thick layers of icy crust upon the asphalt. Two years later, a summer heat wave brought similar omens of death as the temperature soared over the 100 degree mark for over thirty straight days. City and county governments started programs where circulating fans were loaned to senior citizens in an attempt to provide relief to the most needy. It was a time when nature had seemed to have been crazed, and so were the growing number of young people who were gaining their first knowledge of cocaine. In the street jargon, it was often referred to as "snow"; a strange kinship with the natural devastation inflicted upon the region.

Just as the storm of '77-'78 was not of the norm, so was the snow of street drugs beyond the normal range of quality. If a user wanted to purchase a fix in any major city throughout the state.... Dallas, Houston, Austin, Amarillo, San Antonio.... they would receive cocaine that could be tested in an efficient lab as being roughly 35 to 50 percent cocaine. The typical method of distribution called for the dealer to receive cocaine in high quality from which he would dilute the substance with any number

of additives (Manitol being the most popular) and thus multiplying the quantity of his product while reducing its quality. It was the supply and demand concept of enterprise mixed with sound business sense that said that the more one could sell, the greater the profits. Yet, on the streets of Tyler, cocaine was openly marketed at an astonishingly high level nearing 90 percent pure cocaine! One finds it equally astonishing that there has thus far been no indication from the Tyler Police Department sources to show that this unusually high level of cocaine quality was ever questioned by "professionals" within its ranks!

To understand how cocaine gained popularity among Smith County's youth, one must understand the nature of its people. It is here that a vast anemia of intellectualism reigns supreme. Few investigate anything. Any thing that is accepted by the majority is considered to be worthy of participation. Fundamental Baptists, the populace harkens to the weekly call of its churches to fight immorality, but the dominant audio entertainment form remains country and western music. These same moralists never question the negative messages of their prime music form, but continue to rally to its popularity by filling Tyler's Oil Palace to the rafters when a country and western entertainer appears there in a personal "concert." It doesn't matter to these people that the thrust of this entertainment form is concentrated upon the multiple themes of drunkenness, infidelities, criminality, and general degeneracy. It is the music "everyone" listens to, and that makes it acceptable, even within the framework of the churches. An evangelistic movement in the neighboring city of Athens, Texas, spent thousands of dollars in producing a pamphlet attacking the negative messages found within modern rock music, but failed to mention the same failures of country and western, for after all, such an attack might alienate much of its congregation. The people are unwilling to reckon with the idea that their children learn of drinking in a countless number of popular country songs heralding drunkenness as a way of life. They do not give attention to the work habits prescribed by Johnny Paycheck singing, "Take This Job And Shove It." They never give thought to the fact that Kenny Rogers immortalized a gang rape in "The Coward of the County." They give a deaf ear to anyone opposing the debasing message of "She's Not Cheating, She's Just Getting Even." They fail to sense the evil in the infidelities glorified within their music and excuse it with the

odd rationalization that, after all, that is simply "how things really are." More often than not within the sub-culture of country music, this fact is sadly true. These same people would be appalled if their child told them that they were going to chat with an ex-convict who had recently been tried for possession of narcotics, but would be thrilled with the "honor" of the same child meeting Merle Haggard, an escapee from a California prison who was later tried for that very charge. They would only chuckle with the knowledge that of the "Top Ten" country songs listed in December of 1978, nine held the negative themes of marital infidelity, drunkenness, prostitution, and child desertion. Within the cultural vacuum, the people refer to music having skillful technical construction and positive lyrical themes as being "doctor office music."

This demeaning influence has produced its obvious toll upon the populace where bumper stickers boast, "I Scoot My Boots at Kaligas." Unfortunately, the boast is true. Kaligas reigns as one of the clubs in the area featuring country music to the stench of beer where the people imitate dancing in the distorted styles of country rhythms. Arthur Murray might roll over in his grave, but the people soundly believe that this corruption of an ancient art form is truly artistic, for that is the limits of their cultural exposures.

Having produced this influence of corruption as a portion of their legacy to youth, Tyler was later to wonder how it was that something as destructive as cocaine could have invaded their domain. Yet, when one has "scooted their boots," living up to the themes of country music in all forms of social misbehavior; learned of drinking and drunkenness; experienced relationships and infidelities within these encounters, and generally exercised everything taught to them within a culture that found it all acceptable, there appeared to be but one course left to follow. If there was to be something more, it would be found in the white powder substance that brought euphoria and a new experience beyond the reaches of the culture that had corrupted them to believe immortality was "simply how things really were."

Had any of these innocents taken the time to learn of cocaine, they might have taken another route. Had they been taught to exercise their minds with the same zeal as they exploited their bodies, they could have discovered corruptions even greater than they had been taught as totally

acceptable within the framework of their music. It is admittedly easy to utilize hindsight and to herald the call of the moralist, but the course of the county's history was visible to all, but few chose to teach of other paths or monitored the influences of their children's lives. They frequently opposed the growing popularity of rock music (which indeed, does contain corrupting influences by any standard!) but found no fault in their daughter turning the radio dial on a date and enjoying the offensive theme of "Don't Come A 'Knocking If You See My Trailer Rocking." Sadly, the same daughter would have found the uplifting theme of "The Impossible Dream" entirely boring.

Yet, it was not a willing neglect. In their cultural inheritance, the people had teamed to accept country music and all of its negativism as the music form of their region. If one was to be an East Texan, one had to enjoy the thumping and groaning that comprises its sound. It was not propagated with the intent of doing harm to their offspring, rather, it was merely the result of a collective cultural ignorance perpetuated in a way of life solely predicated upon that social and artistic disgrace. Somehow, there appeared to be the element of goodness within it all, when, as one critic reported, "Hypocrisy reaches its heights when country singers conclude the Sodomy Swing and the Incest Blues and announce that it is now time for their gospel song."²⁰ As long as the music was spiced with gospel songs, there surely could be no wrong in it.

It was within this environment of cultural apathy and ignorance that cocaine was introduced by dealers such as Bruce Brunelli and others. The market was a ready one and the drug grew quickly in popularity. The supply was easy and the cost was not prohibitive by the affluent standards of Tyler's youth. It produced the effect wanted by many of the area's youth and for the moment, they could escape the boredom of a small city where nothing changed and excitement was virtually non-existent.

It was this same environment that found teenagers wearing shirts with the faded circle of a Skoals can imprinted on the pocket. The most civic minded considered the multi-million dollar burning of John Tyler High

20 The exaggerations of titles of the country songs were the products of the critic's acid tongue, but the impact of this thought is nonetheless clear. Even country gospel songs have consistent themes bordering upon the ridiculous. "I'm Kicking A Field goal Through the Goalposts Of Life," and "I'm Just A Cowboy In The Corral Of God."

School by two teenager arsonists to be an exceptional event, not at all indicative of troubles brewing within the youth as an age group. When a junior high school student's soft drink was spiked with LSD, the people merely shook their heads, wondering where this singular, youthful fiend might be found. Never was it perceived that an entire generation of Smith Countians was facing an astounding turmoil, for that was beyond the perception of those who had found so much wrong acceptable for so long. In only isolated instances were students urged to exercise their inquiring minds, for if they had, the message of cocaine was available to all and the course of that generation's history might have been quite different.

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It was in 1883 that Sigmund Freud recorded in his notebook, "I took for the first time 0.05 gr. of cocaine.... A few minutes later, I experienced a sudden exhilaration and a feeling of ease." Freud was 28 years old at the time, and cocaine was considered a new discovery on the horizon of medical science. A derivative of the coca plant, the wonder drug had a marvelous potential, thought Freud, and he began to compose what he termed, "... a song of praise to this magical substance." He implored his fiancé, Martha Bemays, to share the experience with him and prescribed the drug for his friend, Ernest von Fleischl-Marxow. Marxow had suffered through the amputation of a finger and had become addicted to morphine in the process. Freud weaned his friend from morphine, but addicted him to cocaine at the same time. When Marxow died in 1891, he was still a cocaine addict screaming of "white snakes" slithering over his body.

It was the noted physician, Dr. William Halsted of John Hopkins Hospital who introduced cocaine as a local anesthetic. His self experiments with the drug continued, however, and his later medical writings have been termed by experts as being nothing more than "gibberish."

In 1896, a story in the New York Herald reported, "Whole Town Mad For Cocaine." A druggist in Connecticut lamented that patients were awakening him at all hours of the night, pleading for their cocaine prescriptions to be filled.

By the waning days of the 19th century, the world had discovered coca wine. One glass, three times a day, said the advertisements, cured insomnia,

anemia, impotence, flu and melancholy. The most popular of the coca wines was Vin Mariani which gained endorsements from no less than sixteen heads of state and 8,000 physicians. "Vin Mariani gives me strength," wrote actress Sarah Bernhardt. French novelist Emile Zola called the concoction, "The elixir of life." The infamous band leader, John Philip Sousa, proclaimed, "Vin Mariani is perfect for brain workers. Since a single bottle of Mariani's extraordinary coca wine guarantees a lifetime of a hundred years, I shall be obliged to live until the year 2700."

Peruvian Wine of Coco²¹ was offered within the pages of the 1902 Sears Roebuck catalog, and Thomas Edison penned an endorsement of coca wine to lend to its social acceptance.

It was on May 8, 1886 when Dr. John Styth Pemberton first drew a glass of his new concoction for customers within his drug store. The wide eyed acceptance of the product taught him that he should keep the formula of bubbly water and coca syrup a secret.²² The event gave birth to the Coca Cola Company and gained mass support from prohibitionists who were trying to rid the nation of the evils of alcohol. Soon, competitive products appeared with titles as blatant as "Dope Cola."

By the turn of the century, government officials were alarmed with news from the medical community that the importation of cocaine had soared 40 percent from 1898 to 1902. Officials of the Parke-Davis Pharmaceutical firm revealed that their syringe kit, intended for emergency medical use, could be found in a surprisingly vast number of households as a regular item of medicine cabinets. William Gillette, an actor appearing on the New York stage in the role of Sherlock Holmes, admitted that during a nightly scene where he was supposed to simulate injecting cocaine²³, he actually inserted the needle and made the use of the drug a portion of the performance.

It was now apparent that something had to be done to curb the grow

21 The misspelling of Coco was later corrected and changed to Coca.

22 When Pemberton later bottled his product, a small cork was used to seal the container. When the cork was removed, it produced a small "pop" sound, thus the term "soda pop" was coined.

23 Cocaine had become so widely accepted that A. Conan Doyle created his character, Sherlock Holmes, complete with the daily habit of using cocaine.

ing flow of the potentially dangerous drug. The powers of government compared the report of a 40 percent increase of cocaine imports to the fact that from 1898 to 1902, the population of the nation had grown only 10 percent. The Pure Food and Drug Act of 1906 placed regulations on cocaine, but had little effect upon the common usage. Even so, the tide of public opinion was slowly turning from the previous laudatory reports about the wonders of cocaine. The May, 1912, issue of Collier's magazine revealed a cover chastising the nation for its susceptibility to drug usage. Despite media clamoring, the flow of cocaine continued and in 1914, Washington produced the Harrison Narcotics Act limiting drug distribution. The price of cocaine soared, forcing it into the ranks of the affluent where the commodity could be afforded by those who had little to lose to social consequences. Cocaine became the "socially in" byproduct of Hollywood. Popular songs appeared still applauding the drug and its exhilarating effects. "Cocaine Lil" was hummed on streets by pedestrians: "She lived in Cocaine Town up on Cocaine Hill."

Leadbelly moaned on Bourbon Street; "Walked up Ellum and I come down Main, tryin' to bum a nickel jes' to buy cocaine."

Douglas Fairbanks, Sr. portrayed detective Coke Ennyday who rendered wrong-doers unconscious with a speedy injection of his ever-ready syringe filled with cocaine in a popular film of the day.

Charlie Chaplin produced "Modern Times" in 1936 where he gained superhuman powers from his doses of cocaine.

The 1939 film, "Cocaine Fiends" found young, innocent girls forced into prostitution by unwilling injections of cocaine by thugs.

All the while, medical experts feared what was happening in Hollywood. In an article appearing in the 1923 Journal of the American Medical Association, it was suggested that the dreamy, faraway look used by movieland starlets was, as often as not, cocaine induced. The use of the drug on the Hollywood scene was so popular that cocaine gained a new alias as "Stardust." Even while such warnings were being issued, a 1922 issue of Vanity Fair included a Hollywood social column revealing that guests attending a "Snow Ball" sponsored by hostess Little Lulu Lenore of the Cuckoo Comedy Company, received "exquisite hypodermic needles in vanity boxes."

It was not until near the end of World War II that Cole Porter realized

the wrongs of cocaine and rewrote the lyrics of his "I Get A Kick Out Of You," from: "I get no kick from cocaine," to "Some like the perfumes of Spain."

Dr. David Musto, one of the nation's leading historians and psychiatrist at Yale, declares that after World War II, cocaine usage declined drastically and the drug fell out of popular favor. It was not until the 1969 film, "Easy Rider" that cocaine was reintroduced to the American public. It was almost as if the people snapped their fingers with an alarmed expression of "Oh, I remember that!" and the drug was again in popular demand. Within the film, two prolific coke snorters race on a deadly path of destruction, spurring the nation's youth to a new attitude of independence and a like destruction.²⁴ The race for cocaine identification had begun.

The rock group, Grateful Dead, released a 1970 song, "Casey Jones," containing the lyrics: "Driving that train, high on cocaine. . . ."

By 1971, Steppenwolf was warning of the evils of cocaine in his rendition of "Snowblind Friend." Mournfully, he sang: "He wanted to go to heaven, but prayin' was too slow, so he bought a one-way ticket, on an airline made of snow."

The Rolling Stones became regulars on the music charts with cocaine songs and the 1972 movie, "Superfly" revealed cocaine within the black underworld and Woody Allen won an Academy Award for "Annie Hall" where cocaine was spoofed within the white community. The more contemporary film, "Scarface" is laden with cocaine references.

By the mid-70s, cocaine usage had grown to such proportions that MacDonalds halted the manufacture of their plastic coffee stirrer when it was discovered that it had become a popular item within the drug culture as a "coke spoon." Exploiters of the drug community had even reproduced the MacDonalds' spoon as a replica in silver.

By now, cocaine had reappeared with the same public proclamations as existed prior to the turn of the century. Beach-goers proudly wore

24 The tragedy of "Easy Rider" presented ample evidence to those country fans who argue that youngsters don't really listen to the lyrics, they just enjoy the music. They certainly accepted the dialogue of "Easy Rider" and parlayed it into a greater acceptance of drug-oriented music that followed. A strange phenomena to a generation that "doesn't listen to the lyrics. . . ."

T-shirts emblazoned with COCAINE on the front. An eastern manufacturer had produced an American flag with COCAINE written across its stars and stripes. The young men of the nation were being inducted into the armed services and shipped to the jungles of Vietnam where cocaine was available in any quantities at shockingly low prices. Drug routes from Colombia to the United States were reopened with a new market within a nation that had reawakened to the presence of cocaine. This time, the drug would be used with a new sophistication. When it was discovered that continued use of cocaine would inflame the tissues of the nasal passage to painful extremes, "freebasing" was devised. Here, the cocaine powder was dissolved in ether, dried, and then smoked through a water pipe. It eliminated the painful process of swollen nostrils and sometimes the disfigurement and death that followed.

The problem with freebasing is that it is dangerous. On June 9, 1980, the volatile ether solution exploded in the living room of Richard Pryor, popular American comedian. He ran in flames from his home²⁵ and was later admitted to the emergency room with burns over half of his body. Doctors gave him little chance of survival. "One chance in three," one of the attending doctors reported to an eager press. Yet, Pryor did recover, but never used his sad experience to inform a nation of potential victims of cocaine's dangers.

By now, cocaine and its assistant drugs were prime factors on the nation's scene. John Belushi, madcap star of "Animal House", "The Blues Brothers" and "Saturday Nite Live," died on March 5, 1982 from an overdose of heroin laced with cocaine. In the street jargon, this mixture would be known as a "Speedball." David Kennedy met a similar fate in Florida in 1984 and auto magnate John Z. DeLorean was video taped by FBI agents concluding a massive drug deal reportedly intended to save his faltering auto empire.

For every tragedy, there was to be the source of this dehumanizing flow of drugs into the nation. 'The most notorious of these sources is the

25 Pryor was later to include the incident as a segment of his comedy routine: "I ran from the house in flames and only one guy ran over to me, trying to stop me. He threw me to the ground and I saw right away that it was a white guy. Can you imagine that? A white guy! He looked at me and said, 'Gotta' light?'" An ignorant nation laughed, but the tragedy of cocaine continued.

"Colombian Cocaine Cowboys." This combine of drug smugglers includes thirteen Colombian families living in an area spreading from South America to Florida. From the coca fields of Peru and Bolivia, they import a staggering \$30 billion a year worth of cocaine into the United States alone. The flow of the drug is so prolific that the price of a gram of cocaine in Miami has fallen from \$100 to \$50 within months. Still, the demand is so great that the profits make the illicit traffic more attractive than anything discovered within Sutter's field. One seizure by the Drug Enforcement Administration alone was a 1,144 pound cache worth a cool \$26 million on the wholesale marketplace. The Cocaine Cowboys laughed at the loss, claiming it was nothing more than a minor "business expense."

Like the apathy of East Texas, the nation has come to "accept" cocaine as a way of life sponsored by the admissions of noted sports personalities and celebrities of its regular usage. In a singular year, 1983, the National Football League, both major leagues of baseball, the National Basketball Association and the hallowed grounds of the Olympics were each rocked by major drug scandals, most centered around the use of cocaine.

It was all a product of a century of cocaine acceptance where one could go to the corner drug store and purchase "Cocaine Toothache Drops" produced by the Lloyd Manufacturing Company (Instantaneous Cure!) or spin the turntable to hear the "Dope Head Blues" recorded by the Okeh Record Company. It was the substitute for everything reality lacked, and was praised by one dreamy-eyed Tyler girl who sighed, "It was my mother and my father, my friend and my lover. It was everyone and everything I ever wanted. It gave me everything no one else would give, and it gave it all so easily." Indeed, cocaine had arrived across the nation, and Tyler, Texas, could be no exception.

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Cherie Paro was the image of what so many young girls wish to become. She had an attractive face, a trim figure, and a bubbling personality reflecting a spirit springing forth from some secluded well of enormous energy. She had attended private Thomas K. Gorman High School sponsored by the Catholic Church. From there, she had enrolled in the

famous Tyler Junior College, noted for its celebrated "Apache Belles" drill team, of which Cherie was a member. Her father had died some years prior to her college days and her mother had struggled to control a house filled with daughters, each reflecting their own personality. As if by a domestic migration, the girls left home to establish their own lives, and Cherie worked in a clothing store within Tyler's attractive Broadway Square Mall. By all outward appearances, she continued to be the energetic girl bent upon pursuing a direction of success that only she could interpret. The one thing that could be commonly agreed upon, however, was that she was likable and friendly to a fault.

What was unknown to the community of people who had cherished the young wisp of a girl was that Cherie Paro was already addicted to cocaine. For a while, she had dated Bruce Brunelli and had then moved on to Tim McGuire, the newly found friend of Creig Matthews at the Strawberry Ridge Apartments. Now, she was the constant companion of Steve McGill, a rugged looking youngster, uncommonly handsome, who had a magnetic influence over her. To Cherie, that influence could be titled only as love.

Once the store closed and the evening reigned before her, Cherie would be met by McGill and they would begin their rounds of the Tyler night spots. The Smith County Electric Club was among their favorites prior to the time that Bora opened the twin Point 21 Club and the sister club known as "Another Place." Here, they could relax and greet friends, make a buy from any one of the area's dealers and snort cocaine in full public view. They could enjoy the music, satisfied with the fact that Bora had yielded to the cries of Tyler's youth and had inserted every third number as a country/western rendition. They could dance and laugh and end the evening by going to McGill's apartment where Cherie finally moved in, for there was no need to hide the facts any longer, it was merely the expected thing between a couple who loved each other.

At the apartment, they would use cocaine again and then permit the exotic effects to blend easily with their sex lives, viewing it as an extension of their relationship. In their youthful rationale, they had the best of everything - love, sex, fun and understanding friends. If the money ran low, they could always find a way to purchase a larger quantity of cocaine and then market the portion they would not use themselves to raise more

cash. McGill seemed to know the ins-and-outs of such transactions and Cherie found an odd excitement in viewing such dealings. She knew that McGill had once served time in a Texas prison for burglary, but that didn't matter. It was now just Cherie and Steven, and the past didn't matter to her youthful idealism. All she needed was Steve, love, cocaine, and another day to pass. That's all anyone had in the long run.

The only person who had ever questioned the directions of her life had been her godmother, granted by the traditions of her Catholic background. Dorothy Craddock had been selected by Cherie's parents to serve as her godmother shortly after her birth. Mrs. Craddock was a tough, no nonsense woman who had, with her husband, built a thriving business at the Broadway Square Mall dealing in juvenile clothing. It had been Mrs. Craddock who had stopped Cherie one afternoon within the mall and asked for a moment to speak with her. In that time, she asked if Cherie knew the directions her young life was taking and what her behavior might inflict upon her future. Cherie had been troubled by the conversation, not so much by its content, but by the outside chance that her godmother knew of her dealings in cocaine. She nodded obediently and promised to re-evaluate all that she was doing. Mrs. Craddock had seemed satisfied with that, and Cherie soon dismissed the entire experience, marking it as the product of the generation gap.

Leaving work and arriving at Steve's apartment was her favorite time of the day. It was then that she could relax, lean back and close her eyes and wash her mind of all the turmoil of the day. Steve would be there, ever present. He would sit beside her and she would rest her head upon his shoulder, sighing with a sincere relief. She could smile then and tell him of her joy that the day was over. Now it could be just them and the demands of life seemed to be very far away.

Weekends were even better. Then the luxurious moments would last even longer. There would be an occasional call from her mother, but beyond that, the hours of Saturday and Sunday were exclusively theirs, to do as they pleased. To her way of thinking, life was unfair to demand the long hours of labor to sustain life. There should be something more to living, something more casual to the passing of the days. But always, something would arise to force the controls of reality back into their young lives. The rent would be due. A car payment would be overdue. A utility

bill would arrive. Every nudging of reality was an intrusion upon their lives and they objected to the realm of adult living, thinking all the while that life should have greater natural rewards. As their usage of coke increased, so did the available money for such demands proportionately decrease. There had to be a supplement somewhere and Steve soon reverted to his old skills in providing the additional cash. On Sunday mornings, while families were in church, they would walk to the door of a home located in the "better" part of town and ring the doorbell. They knew the excuse they would use if someone should answer the door. They had the wrong address and were looking for an old friend who used to live in that neighborhood. More often than not, Steve's observations of the schedule of the victim family was accurate and there would be no reply to their knocking or ringing of the doorbell. Then they would break a small pane of a window and reach in to unlock it. Silver, cash, jewelry, almost anything of value would be stuffed into pillow cases and they would quickly return to their car and await the anxious moments when Steve would deal the merchandise off to a "fence" who was usually located in Dallas.

The burglaries netted them the cash needed to keep their cocaine supply sufficient for their needs and release Cherie's earnings to pay the necessary expenses. When the score was good enough, they would have surplus cash to make a cocaine buy and then peddle the coke in Tyler for ready funds. The weekend burglary excursions slowly became a portion of their weekly routine, much the same as the typical housewife going shopping. Both came to view the activity in this casual light.

From time to time, the haul of their burglaries would be too great to transport and their apartment soon took on the appearance of a domestic warehouse with portable televisions, VCRs and stereo systems standing against the wall, awaiting a ready buyer. Steve would fill his days trying to peddle the merchandise and was usually successful. Money was less of a problem now, and they invested in more cocaine, increasing their daily usage to the point of near addiction.

All of it was now a portion of Cherie's adopted lifestyle. She no longer felt the pangs of guilt taught to her by her long contact with Catholicism. Her world was more secure than it had ever been and her mother had opened a new store as owner-manager dealing in top brand toiletry

articles geared to the tastes of Tyler's most affluent families. She no longer had to feel the fear of her mother's security and her own well being was insured by Sunday morning break-ins that were somehow protests against the power of the aristocracy who owned the homes they pilfered. Still, she attended mass each Sunday, or at least as often as she could. In church, she would glance in the direction of Bruce Brunelli, a fellow member of the congregation. She would see the Gonzales brothers who were active dealers in the area. About her, she would spy those she knew would leave the services to snort coke and make the luxurious journey into a counterfeited splendor a portion of their restful weekend. In such moments, she wondered about the good-and-evil concepts of her life, but that apprehension could be ended with the contact of the white powder and she could easily dismiss the thought. Anyway, there were multiple ways to justify all that they were doing. The victims of their burglaries always had insurance and sometimes when reading newspaper accounts of the crime, they would laugh at the elevated claims of the homeowners of the amount of their losses. Typically, it would be doubled for the sake of the insurance claim and Cherie took an odd comfort in the fact that even the victims had profited from their Sabbath excursions.

There were many things her young mind was able to distort. She found an odd admiration for Steve's skill in conducting the burglaries and a deeper amazement at his ability to deal with characters who were obviously far more attuned to criminality than were they while making cocaine buys. Her values had been reversed and she accepted her new credos with a strange willingness, for as long as she could feel as she did, the guilt would not haunt her.

Always, there was the need to receive cash. Either by fencing goods from one of their burglaries or by dealing in cocaine. It was good news, therefore, whenever Steve would announce that he had a customer waiting in the wings.

So it was that Cherie cooed softly when Steve gathered her in his arms when she returned home from work. They settled on the sofa and snapped on the television. "Guess what, baby," he announced.

"What?"

"I'm gonna' have to deal somewhere. I've got a new buyer waiting with big bucks."

"Yeah?" she said excitedly. "No shit?"

"Really," he assured her. "He's got the loot."

"Who is it?" Cherie inquired.

McGill smiled broadly. "You've met the guy a couple of times, I think. He works for Bora down at Point 21. Jim Meyers is his name."

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The flow of cocaine within Smith County was sufficient to the needs, and the need was almost purely social. It was not typically comprised of hard users who demanded the drug, for their continued survival. They were not those who could be categorized as the hopheads bent upon drug dependency as a way of life. Rather, the users of Smith County were those who truly enjoyed the occasional encounter with cocaine, mindless of the potential consequences both physically and in relation to the violations of controlling laws. To these, such encounters were adventures, oddly stimulating, adding to the exhilaration of the drug itself. They were indeed users, but could not be termed as addicts.

The list of those who could be identified as "social users" of cocaine included some of the most established names within the area. Toby Fuller, the son of a prominent local restaurant owner. Bill McCain, son of the owner of a major building materials company. Randy Massad and his brother, David, sons of a Tyler clothier catering to the elite of the region. Cherie Paro and her sister, Lynette, daughters of a well founded family of long-term roots. The list went on until it reached the bottom rung of the social ladder. Below that point rested the users who did not find the bloodlines flowing into the aristocracy of the county. These would be referred to as the "scumbags," the lowest form of users. It was not necessarily because their habits were any more demanding than those of notable names, but the fact that they had no such identity delegated to them in the providence of their birthrights. Certainly the affluent could not be faulted for their offenses, thus it was obvious that they had to have been led into their errors by those of lesser influence, for that was the rationale of a county so steeped in the concepts of social stratas.

Atypical to an aristocracy, the affluent youngsters were unified in their knowledge of one another. Those forming the "upper crust" of

society were generally friends, or at least nodding acquaintances. The users outside of that social circle were sometimes known to the group, but rarely were participants within their interactions. As often as not, this lower strata comprised the dealers, feeding off of the affluent group in their clandestine meetings. The elite group knew which of the lower echelon had contacts able to provide a given substance; there were those who dealt in marijuana, those who marketed amphetamines, and those dealing in snow. It appears to be safe in retrospect to say that all of the elite group knew Bruce Brunelli, the young dealer listed upon Tyler Police Department records as being the most prolific of those marketing drugs within the region.

An integral part of their social schedule called for their attendance at one of Bora's clubs where they would share tables and conduct the same small talk and giggles as found in any gathering of their age group. To the casual observer, they would have been representatives of their age typical to any region of the country. The only difference of significance was that they were youngsters living within Smith County.

It is not difficult to stray for a moment and be cruelly objective. In that objectivity, one must confess that had the same group gathered in the clubs of New York City, Chicago, Los Angeles, Philadelphia, their usage of cocaine would have been viewed with enormous degrees of tolerance. Cocaine was the standard vehicle of exhilaration for youth throughout the nation and pot was so standard that some eastern courts fined offenders a mere \$50 per ounce for possession. In Smith County, prior to 1973, possession of an ounce of marijuana could easily net an offender a life term behind prison walls. Expanding that objectivity, however, one must conclude that perhaps the nation would have been better off had it adopted the harsh attitudes found within Smith County. Had the nation at large not been so lenient, perhaps cocaine would have had a far more difficult time taking roots within the culture of America's youth.

The idea of penalties for their actions rarely occurred to Tyler's affluent youth, however. It was almost inconceivable that they could be subjected to retribution in any form, simply because of their noble heritage within the chronicles of the area's history. The statement, "Do you know who my father is?" had saved more than one of the elite youngsters from arrest when caught tipping a can of Coors along Broad-

way while behind the wheel of their car. Surely it would always be the same and they would be protected or treated with a fearful preference by law enforcement officers. The roots of their family tree also provided an umbrella of protection, and they relished in it.

For the "have-nots," it was quite a different story. Brushes with local law could be a devastating experience where a tearful youngster would call his parents from the Smith County jail and the family home be placed as security for a bondsman who secured bail. Yes, it was quite a different world to be beyond the protective circle of the affluent.

Perhaps the most notable of the have-nots was Cowboy Denmark, a cultural renegade by any standards. If Denmark's approach toward receiving attention was bizarre, then it must be admitted that they were also very effective. According to the investigative work done by the staff of the Dallas Morning News, Denmark was, at one time, listed as the nation's youngest bank robber, having held a gun on a teller at the tender age of twelve. Gregarious and generous to a fault, Denmark was viewed as a Robin Hood character by many of those who knew him. He would knock off a convenience store to secure a quantity of cocaine, and then share it with those accepting his presence and willing to listen to his illustrious tales of adventures beyond the boundaries of the law. If he had social failings, Denmark was, nonetheless, street wise to a degree probably greater than any of his peers. He had the same gut feeling as a criminal as Creig Matthews possessed as a narc. In police jargon, he was listed as a "heavy", one who might be carrying a weapon and be willing to use it. Denmark, and those like him, were the polarized extension of the table of users from the society children who tampered with cocaine. They were at one end of the spectrum and Cowboy Denmark epitomized the opposite extreme.

Among Cowboy's traits was an abundance of nerve. He had heard that Ken Bora was well heeled - had plenty of cash on hand. Within the scope of the code of his kind, it was not proper to rip off someone you knew, so his approach to Bora was unique and novel.

"I have this idea for a movie," he told Bora one night at the Point 21. "It would be the greatest movie ever made. All I need is someone to bankroll making the movie. I'd like to see you do it."

Bora blinked a couple of times, wondering if this strange young man

he had only seen a couple of times within the club, could be for real. He quickly excused himself, stating that he wasn't in the movie business and really wasn't interested.

The grandiose plan may not have worked for Denmark, but he was used to failure. He could accept those things that never seemed to work out and found it strangely consistent that the greatest failures were found within his attempts to do something legitimate. It was easier, therefore, and more logical, to do something illegal. He had been rather successful at that.

Down the social ladder, Denmark knew characters like Steve McGill, Tim McGuire, Kit Dane Richardson, and Russell Warrington. These were the users who could not call upon the reservoirs of familial wealth to support the demands of their recreations or habits. There had to be other resources to afford the costs of their narcotics, and for some of them, the resource was found in various infractions of the law.

If anything was held in common to these extremities of the social ladder, it was that they visited the same clubs and had somehow, almost artistically, been contacted and befriended by Bora's new employee, Jim Myers. To all of them, he appeared genuine and as someone wanting to discover new realms of "action" within the community. That was something they could all understand and they embraced him in a sense of total empathy. After all, he was friendly and one who had an "understanding" of the drug culture, and that was credentials enough for most of them. It was only Cowboy Denmark who remained reserved, watching Myers operate in a suspicious vigilance. Denmark's gut feeling was not as accepting as his friends, and he chose to remain aloof from Myers for a while, for there was something strange about the man. For long moments, he would sit in the corner of the Point 21, watching Myers issue waves of greeting to acquaintances, flashing a broad smile, and sensed that there was something more to the man's warmth. There was definitely something more, and he would wait patiently until he could determine exactly what it was.

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Jim Myers moved to the bar to retrieve the rack of soiled glasses and deliver them to the Mexicans working in the room where they would be

quickly washed, rinsed and returned for reuse. He smiled again, darting his eyes about the club, trying to recognize those he had grown to know and perhaps discover a new person within their midst. Always, he watched the roamings of Ken Bora, making mental notes of who he paused to contact and diligently observing his attitude, hoping that one such meeting might reflect the serious approach of a drug deal. It never came, but he remained alert nonetheless.

He had torn three pages from the calendar within his apartment at Strawberry Ridge and now the mystic of the Christmas season was upon East Texas. Street decorations hung from lamp posts and the soothing drone of carols echoed through the corridors of Broadway Square Mall. The club had been decorated and blinking lights were strung from the stanchions of the bar. It was the tenth of December, 1978, and he found little reason to rejoice. He had not secured any significant information to prove his value as a vice officer, and during a telephone discussion with Kim Ramsey that morning, there had been some question whether or not she would be able to come to Tyler for the holidays. She had visited often in past weeks, and he had become accustomed to her again to the point that he now missed her. His smiles were forced now, for his spirit was dampened with the thought of his loneliness.

He had turned with the tray of glasses when a customer rushed to the bar and beckoned the bartender, whispering excitedly, "Have you heard what happened? Honest to God, the chief of police has been shot and killed!"

The bartender expressed his shock and Myers placed the glasses again on the bar. He tried to conceal his amazement and images of some target of their investigation gunning down Malloch filtered through his brain. He was surprised to see his hands trembling.

"His wife did it!" the man continued. "That's what the news said. Some sort of beef inside the house."

A crowd now gathered around the speaker, and Myers abandoned his duties to join them.

"The news said she gunned him down right in the house. Anyway, I'm not bullshitting, the chief got himself blown away!"

Ronnie S. Malloch had the granite face and stocky build of a nonsense lawman. For three years, he had been the chief of the Tyler Police Department. To those who knew him best, it was obvious that portions of the job did not come easily to him. Malloch was of the old school. He could remember the segregated schools and the times when blacks rode in the back seats of buses. The world may have changed, but Malloch did not. As the city's top law enforcement officer, the predominantly black north side was the source of constant irritation. He was convinced that the blacks represented the giant share of the city's crime rate and had increased patrols throughout that district. He was forced to be cordial and smile to the community's black leaders, but was deeply upset with the recent election of a black, Jerry Russell, to the city council. Even his wife had characterized him as a bigot, but he knew himself to be simply someone who was aware of the true problems of Tyler and who was unable to adequately combat them.

His daily routine left little opportunity to vent his smoldering angers, so he utilized his weekends as safety valves, drinking heavily and brooding. Upon rising that morning of December 10, 1978, he had mixed himself a Vodka Collins and had settled back to watch the Dallas Cowboys take on the Philadelphia Eagles. His wife, Carolyn, knew to keep his time as uninterrupted as possible. The mainstream of family activity, including the boisterous girls, Kathy, 9, and Tracie, 5, would have to be controlled and guided around him to avoid his spontaneous outbursts of wrath. She prepared a late breakfast that was eaten silently. Malloch ate half-heartedly, as if it were but another duty done reluctantly. He then opened a beer, his third, and settled again before the television.

The game was a "yawner." Cowboys - 31, Philadelphia 13. Malloch stared at the set long after the post game show, his mind obviously upon other matters, oblivious to the moment.

The girls now moved to the living room floor. The game being over, it was safe to enter their father's line of vision, to speak and laugh. He had consumed five Vodka Collins and four beers by this time and was now sipping from a glass of wine. He was calm in such moments, they knew, and they felt secure in their moment of play. Always, they were guided by their mother, for she could best recognize the signals of their father's mood. "Play now," she would say, "but try to be quiet." There was always the

qualifying condition, for it was always best not to stir their father's anger. The girls spoke of lofty things. They narrated to one another the course of their destiny. Kathy would marry a millionaire someday and live a life of unlimited luxury. Tracie, not being as creative as her sister, was forced to merely embellish upon the thought or ridicule it as being impossible. Kathy would narrate the description of her future husband, firmly implanted within her imagination. Tracie would counter the description, making her fantasy more captivating, more appealing. Soon, the discussion grew toward the absurd with Kathy creating imaginary mates of incredible proportions and bizarre characteristics. She would marry an old man, older than grandpa. The thought brought ripples of laughter to Tracie, who countered with the statement that she would marry someone even older, more decrepit and feeble. Kathy quickly mentioned the name of a local character known for his penchant for the bottle. Yes, she would marry him, and Tracie giggled in bright ribbons of laughter, envisioning her sister with the notorious sot. It pleased Kathy to make her sister laugh and she sought another image to further delight her. She predicted her marriage to cartoon characters, bringing fresh responses of hilarity. It was then that Kathy Malloch was to utter the forbidden phrase, the playful illusion transgressing the fantasy world of children and opening the door to an insane prejudice. "Maybe I'll marry a black man," she giggled, and Ronnie Malloch screamed in a fanatic protest.

Carolyn Malloch had heard Kathy's comment of playful innocence and rushed into the room at the sound of her husband's anger. She saw the child cowering before her father, her eyes wide with fear. Ronnie was in the midst of his tirade, demeaning the child for the thought of being married to a black, regardless of how innocent the comment may have been.

"Ronnie," she said in calming tones, "she's just a child. She was only playing"

He returned to his chair, emptying the glass of wine and muttering comments about "stinking niggers" and the nature of "white trash women." His daughters needed better training, a framework of teaching that would never permit them to consider such a union, not even in play. Carolyn Malloch knew the nature of her husband. He would brood for a while now, like a smoldering volcano. The eruption would come

sooner or later, violent and terrifying. It was time to remove the girls from the room, taking them from his sight as a physical reminder of the source of his anger. She tenderly herded them into their bedroom, instructing them to play quietly and to remain there, no matter what happened beyond their closed door.

In the moment of her fear, Carolyn recalled another time when there had been a disagreement about the upbringing of the girls. The issue of the argument had long since been forgotten, but there was other memories of that day that would be always indelible upon her mind. Ronnie was drunk that day, too. He had charged his wife with improperly rearing their daughters, failing to instill within them his concept of "proper values." The argument had become threatening when Ronnie informed her that he would make her "see things his way." She had fled to the bedroom, hoping that he would leave her there, staying in the living room, brooding and seething with his drunken rage. But he did not. Ronnie Malloch burst into the room and asked her again if she was going to "straighten up her act" and agreed with his position in the matter. Defiantly, she replied, "No, Ronnie, I'm not going to agree."

Her cheek burned with the blow of his hand and she reeled against the wall, sagging with hysterical sobs to the floor.

"You'll see things my way, won't you?" he mocked. Again, she shook her head in anger, muttering, "No." She watched fearfully as he grinned, pointing toward her upon the floor. "Stay there," he commanded, "don't you move." Slowly, dramatically, he opened the closet door and removed the .38 caliber pistol from the shelf. "Now we're going to see how quick you can change your mind."

He widened his grin as he knelt over her, his knee forced against her chest. His hand clutched the pistol while he grasped her nose with the other hand, pushing it painfully upward, causing her to involuntarily open her mouth. With an expression of calmness, he inserted the barrel of the pistol into her mouth, hard against her tongue and the sensitive pallet. She gagged and struggled for a moment, clawing at him as he cocked the hammer. "Now, bitch," he sneered, "you do agree with me, don't you?"

At last, she nodded. Yes, she agreed. The surrender might dismiss the anger, perhaps appease him. She could hear his soft chuckles of victory and felt his knee move from her, the pistol being withdrawn from her

mouth. Her breath came in agonizing gasps. "You'll do as I say," he informed her, his hand clutching her chin, forcing her eyes to meet his. "Do you understand? You'll do as I say."

She nodded again. Her nostrils revolted with the stench of beer and sweat. Yes, she would do as he said.

The pistol had been placed back on the shelf and he had left the room when she struggled to her feet. She thought of the weapon. It would be easy to retrieve it from the closet and walk calmly into the living room, pointing it and pulling the trigger. Her face would bear the wounds of his assault. Her mouth would provide bloody evidence of her allegation that he had threatened her life. It would have been easy. In that moment, she knew she would have felt no remorse. She would erase from her life the oppressive fear and despair. It was the first time she realized that she could truly kill Ronnie Malloch, and she promised herself that she would never again suffer an abuse of this sort at his hands without retaliation.

She had undressed then, pulling on a robe and moving painfully to the bathroom where she adjusted the flow of the shower to a steaming spray. Her body ached. A glance in the mirror revealed the red whelp below the eye. In the shower, she lathered her body, as if washing away the pain, the offensive filth of the event. She dried her body and again examined her reflection. She was 32, young and attractive. She could admit such things to herself, for she needed estimates of self-worth. After two children, she still had the lines of a good figure and was always cautious to be presentable. Yes, she concluded, she was still an appealing woman. The attack and Ronnie's brutality could never change that. She had value as a human being, and she would maintain her dignity and pride in spite of him.

Returning to the bedroom, she painfully selected another blouse and jeans to wear. She had begun to remove the robe, but drew it closely about her body with the sight of him re-entering the room. God, she thought, don't let it all start again. Yet, now his expression was not one of anger. His hands were not clenched as weapons.

Ronnie shook his head sadly, twisting one hand within the other. "I'm sorry, Carolyn," he whispered. "God, I'm sorry about all that. I don't know what makes me do things like that. I don't mean to, it's just some thing that gets the best of me. I don't know what it is, but I can't control it. I think I need some help."

For a while after that, Ronnie Malloch had sought relief from his turmoil under the care of a psychiatrist in Henderson, Texas, some thirty miles from Tyler. He did not want to go to a local psychiatrist, for he had his reputation and stature within the community to consider. There was much to be discussed in his sessions with the doctor. There was the stress of his job, his inner anger and feelings of intense hatreds. He revealed his physical condition; the prostate problem and the fact that he had not experienced sex with his wife for over a year. He received counseling for his drinking, and for several months, he appeared to be improving. He drank little and his attitude improved. Carolyn Malloch had even begun to hope that life could begin anew between them.

By the latter part of 1978, however, Ronnie had stopped seeing the doctor and had returned to his weekend bouts with exotic mixtures of alcohol. His moods were volatile and his ancient hatreds were resurrected. He found pleasure in reading about the lives of Napoleon and Hitler, seeming to idolize both. The old Ronnie Malloch had returned, almost as if he had, for a short while, been replaced by a clone of better qualities.

Carolyn thought of all such things before returning to the living room where her husband sat in the over-stuffed chair, staring into space with features yet blanched with an inner rage. A silence dwelled between them as she began to wash the breakfast dishes. Ronnie pushed himself from the chair and entered the kitchen to pour another glass of wine and filled a second glass, placing it beside her. Without comment, she sipped of the bitter fluid, almost obediently. Perhaps it had been a gesture of guilt, a signal of his compromise. She poured the remainder of the wine down the drain and washed the glass. Earlier, he had mixed her a vodka Collins, and she had disposed of it as well. Carolyn Malloch was not a drinker, but knew her husband wanted her to share in his moments of indulgence that produced empty bottles. It was his concept of union, the communion of sharing. Yet, perhaps now the anger would subside, the need to fear ease. With the children being in another room, perhaps he would surrender to his drunken passiveness and forget the events but a moment before.

"You wouldn't even care if our girls married niggers, would you?" he called from the living room, and she knew her fears were well founded, that the violence was still boiling within him.

"She's only nine, Ronnie," she sighed. "She doesn't know."

His tirade began again with the charge that Kathy *should* know. She should have been taught long ago about blacks and that the races don't mix. He wasn't going to have a nigger in the family and the way the girls were going, it damned well would someday happen. "My own daughters talking about sleeping with a nigger!" he lamented.

Carolyn clutched the dish cloth within her hands and moved to the door separating the kitchen from the living room. "Ronnie, listen to me, would you please? You're getting all upset over nothing. Absolutely nothing? Little children play at things that make them laugh, they don't think about the meaning of what they say, they just say it because the very idea of it is funny to them. Kathy wouldn't marry a black man, she said it because the idea was so absurd to her that it was funny. If she had ever really thought about doing it, the idea wouldn't have been so ridiculous. And, she's only nine, Ronnie. Nine-years-old! At nine, you don't even think seriously about marrying. Can't you see that?"

Ronnie stared at her for a moment, his mouth tightened in a glare of rage. "Listen to you, calling them *black* men. You can't even bring yourself to call them what they are! They're niggers, woman! Niggers! And there's not a damned thing funny about even thinking of being married to one! Now, I've told you before that you'd better start teaching those girls about the right things to do! To teach them about niggers and how good white women don't mess with them! But instead of teaching them right, you have to go around calling them *black people*, as if they were too good to be called niggers!"

"Ronnie. . . ."

"Shut up!" he commanded. "I've had about all of this I'm going to stand for. Those girls are going straight to hell and you're not doing a damned thing about it! You're their mother, dammit! You ought to teach them better than that!"

"I do teach them!" she countered angrily. "I teach them the things they ought to know, but I don't want them growing up to hate anyone just because their skin's a different color. That doesn't mean they have to love them, it just means that I don't want them learning to hate them!"

He stood again with her retort, his fists now clenched and the muscles of his jaw twitching. "Not one more word," he commanded. "Not another word out of you. You listen to me now. If you can't raise the girls to be

any good, then there isn't any point to any of us living. I might as well blow this whole damned place apart and I might as well blow myself up with it. I mean it, bitch! I ought to kill you and I ought to kill the girls and I want you to see every bit of it before you die! And, let me tell you something else! I can do it right now. I've got enough fire power out in the car to do the job!"

Carolyn Malloch raised her hand to her mouth with the sight of him walking to the door and the sound of it slamming behind him. She ran to the kitchen window to see him struggling to open the trunk of the vehicle he used on police business. This time, she knew, he meant it. It would not be the feinted violence of a mere threat. Quickly, he ran to the bedroom and pulled from the shelf the .38. Her mind strangely floated back to a scene several months earlier when he had taken her and the .38 to the Tyler Police Department firing range. He had instructed her in how to fire the weapon, admonishing her, "If anyone ever tries to break into the house and you know they have a weapon and want to harm you, don't you ever let them get inside. You blast them away on the spot, do you understand?"

Ronnie Malloch barely reached the kitchen door. Four shots rang from the .38 revolver and he fell in a spinning motion toward the floor, his body jolting with each impact of the bullets. Beside him, a case containing a Thompson submachine gun clattered upon the tile.

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It was 7:09 p.m. when Carolyn Malloch called the police department informing them that she had just shot her husband. Captain Bob Bond rushed to the scene of the shooting at 1021 Pinedale in Tyler and conducted the on-site investigation. He listened to the trembling voice of Mrs. Malloch recounting the events of the evening and turned politely away when the daughters re-entered the room, hysterically embracing their mother and having their heads stroked with loving caresses.

"Why did Daddy try to hurt me?" asked Kathy. Carolyn did not understand immediately what the girl was speaking about.... what event she was referring to. "He took me into the bathroom and held me down in the bathtub and choked me," the child sobbed. Red marks

embroidered her throat. Carolyn could only surmise that while she was washing the dishes, Ronnie had taken the girl into the bathroom for the administration of a punishment for her untimely reference about marrying a black man.

Soon after, Carolyn Malloch was ceremoniously charged with murder and booked into the Smith County Jail. At 11:25 p.m., she was released when her father, Lewis R Satterwhite of Bullard, Texas, posted the \$5,000 bond.

On January 29, 1979, a pretrial hearing was conducted and Carolyn Malloch was later found not guilty of the crime of murder. It was determined that sufficient evidence existed to prove self defense. Now, the ordeal was over. She would no longer know the fear of her own home, and she had unknowingly altered the course of the city's history, for Assistant Chief Willie Hardy was already serving as the interim chief with his promotion to chief being a certainty within the ranks of those who knew such matters in advance.

If Ronnie Malloch left a legacy, it was bound in the intricate tapestry of a true mystery. In the days prior to his death, he had conducted his affairs with an odd secrecy that would be kept inviolate by those he had encountered during that period. From the workings of his mysterious master plan emerged an intrigue that must challenge any inquisitive mind and suggest those things that have been so often denied since that fateful moment when his wife pressured the trigger of her revolver.

It is apparent that the concept of the drug investigation within Tyler found its life within the framework of Malloch's planning. He was not a former narc and had little experience in direct street contacts. He was admittedly a fine administrator, and that was his prime strength allowing him to rise to the position of chief. Yet, conducting a drug investigation of the magnitude later found within the city, one must conclude that the process was expensive and probably far more costly than the figures later released by an audit demanded by the city fathers would indicate. While the accounting firm of Squyres, Johnson, Squyres and Company scanned available city records to determine that the investigation had a price tag of about \$49,000, former Vice Division Commander, Mike Lusk was to reveal that he personally signed vouchers related to the probe totaling in an excess of \$75,000! Yes, there was a definite difference involved, and a

mystery that has haunted those seeking the truth since the final days of the investigation.

Perhaps the only clue to the source of this funding was found in a bizarre event taking place but a few weeks before Malloch's death. Malloch had called upon District Judge Galloway Calhoun, seeking his counsel about a "confidential" matter. Calhoun agreed to the meeting and listened attentively as Malloch hesitantly began his narration. "I want to give you a hypothetical question," he began. "It goes like this if someone, or a group of people with plenty of money, had given you a large amount of money to conduct a drug investigation in Tyler and you didn't want to reveal their identities, what would be the best way to administer the funds and see that they were used without revealing too much to the Finance Department about this whole business?"

Calhoun frowned deeply and thought for a long moment. "That's not an easy one," he admitted.

"It's all hypothetical," repeated Malloch, as if wanting to impress Calhoun with the thought.

"Certainly," agreed the judge. "I guess the best way would be to establish a special project fund within the city records and use the money in that fund exclusively for the operation. I don't think you'd have to do much more than that."

Malloch seemed relieved. "You think that would do it?"

Calhoun nodded with a shrug. "Off the top of my head, I'd say that was as good a way as any."

Malloch left soon after that, leaving Calhoun with the impression that the hypothesis was something far more attuned to a reality. Had Malloch received a large cash donation? Was it handed over to him in cash and he was nervous about handling it? If so, who would want a drug investigation in Tyler? Who could the mysterious donor be?

Throughout the course of all the hearings and trials that were to follow, Calhoun was never to reveal the secret meeting within his chambers. He was never to speak publicly about his encounter with Malloch or the substance of his "hypothetical" wealth.

For Creig Matthews, the subject of funding was never a serious one. He had been able to receive what cash he had requested without question and now tried to psyche himself for the days ahead when he would be

dealing directly with Willie Hardy. He discovered that within the drug culture, the death of Ronnie Malloch hadn't had much impact. The late chief had never been a highly visible official, and contacts with drug offenders had been minimal. They had known little about him. The prospect of having Willie Hardy as chief, however, was quite another matter. It was known that Hardy had been in vice and had worked undercover in prior dope busts. Still, those who knew Hardy simply chuckled with the fear that the lid would be tightened now on street operations. "I know Hardy," laughed one dealer. "Believe me, he couldn't find his way out of a phone booth if it had four doors!"

Matthews captured each detail of the patron's reactions to Hardy's rise to power, and often joined them in their laughter. Hardy had been described as a crack investigator, prompting a regular of the Phase 21 who dealt openly having his pockets filled with amphetamines, to remark, "An investigator? Hell, he couldn't track an elephant through a snow bank!" The gathering laughed loudly with the observation and the man they knew as Jim Myers joined them, thinking to himself, "You might not be afraid of Hardy, asshole, but I've already got your number!"

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"The principal law of life is to never judge the species by the specimen."

Unknown

CHANGING TIMES

It did not take long for Willie Hardy to pull on the harness of his new job and begin to shake the foundations of the investigation to which Creig Matthews had been assigned. He had been confirmed as permanent chief not long after the acquittal of Carolyn Malloch, and had settled into the job quickly, as if it were destined to have been his at any cost. He had always thought of himself as the heir apparent to the position, and now that he had arrived, he was filled with satisfaction and the determination that he would excel above all others who had ever preceded him.

For Creig Matthews, the transition was difficult. He could no longer enjoy the direct communications with Malloch. He was now expected to report to the new commander of the Vice Division, Mike Lusk, for Loyd Waterman had resigned some weeks earlier. Lusk had been promoted to the rank of sergeant in a bizarre exploitation of the Civil Service system. Hardy had informed Lusk that he was to take the sergeant's examination and had presented him with a workbook dealing with the questions that would be asked upon the quiz. Lusk was relieved from all duties other than studying the workbook and Hardy would check with him from time to time, asking if he was encountering any particular problems.

Lusk was later to relate an interesting scenario of his promotion during an interview held on February 14, 1984 in Houston, Texas:

Q: Tell me about promotions within the department, how did they operate.

A: Ah, see, the folks there in Tyler were under a Civil Service program. Civil Service examinations, and ah, then I think a little interview board, things like that.

But, ah, when the sergeant's examination rolled around after Loyd Waterman's resignation, ah, I was.... the books with the proper answers in them and all was made available.... readily available to me. And I began memorizing them and Chief Hardy told me that, ah, what to study and what not to waste any time on. Before the examination was to be held that next morning, he called me and asked me if I had any questions. Y'know, about it, and, ah, I told him that, yeah, there was a couple of little things I was having some trouble with, and ah, he shuffled some papers I heard him shuffling papers over the phone.... and he said, well, don't worry about those, those aren't any problem, so don't worry about those. Q: He meant that they wouldn't be on the test?

A: Yes, right. They wouldn't be on the test. And, ah, man, I went in that next morning and I took that test and I flew through it and I answered every question on it, nearly, and I -

Q: You were the first to finish, weren't you?

A: Oh, yeah. Somewhere in the neighborhood of fifteen minutes. And I made the highest score, and that afternoon after the test, I was given the rank of sergeant to remain in the vice division. It was, ah, common knowledge around the department that after Chief Malloch had passed that, ah, Hardy would make Chief of Police, and when the Civil Service exam was given to make an assistant chief, there wasn't any doubt in anyone's mind that Captain Findley would make assistant chief.

Q: Was it rigged?

A: I would assume so, yeah. There was no doubt that when Findley made assistant chief that Nash²⁶ wouldn't follow right in his footsteps. There wasn't

26 Tony Nash, still a member of the Tyler Police Department.

any doubt about that, and consequently, he was promoted from lieutenant to captain. Then, at that point, I think that the lieutenant position was pretty much up in the air, and the best that I can recall, Al Griffin²⁷ was substantially down on the list, he was third or fourth or something like that, but was eventually promoted to lieutenant on that particular test.

Q: Okay, now, you actually had marked copies of the test....

A: I didn't have marked copies, I had the training manual, or the, ah, questions, answers. It was multiple choice answers and the answer was either circled or highlighted in each case, and the reason for that was because people who had taken the test previously had gone through it. It was already used books. And Chief Hardy on several occasions would come back and close the door on the vice office and tell me you don't have to take any calls or do any.... be out on the streets.... just stay back here and make sure you learn what I've told you to learn. And, ah, certain areas, it would break down into different chapters and things patrol procedures, management, jail procedures, things like that.... the study guides were broken down.... he would tell me which areas not to concentrate on, just to do this section and this section and this section. And, ah, concern yourself with this area, this area, and this area. Stop up to this page here and skip this three or four and then go on over here. It was obvious to me what he was doing.

Q: Do you believe it's possible to prove that any of the promotions were rigged?

A: If those involved would tell the truth, yes.

Q: Do you think it's possible to physically prove it in any way?

27 Griffin is reportedly now with the San Antonio, Texas Police Department.

A: That's a difficult question. You can prove it on my behalf.

Q: Physically, I mean. With documents of some sort.

A: Ah, I doubt it.

Q: How did Hardy know what was going to be on the test?

A: To me, it was obvious that he was always very close with the Civil Service director.

Q: And that was whom?

A: Ah, I can't think of the lady's name now.

Q: Was that the Acker girl?²⁸

A: No, the one prior to her. You're talking about Red Acker's daughter? Yeah, that was the latest one. Ah, there was one before her also that he was extremely close to. I think.... what was her name? But we're talking about the same person. She was the one who gave the test and graded them out that morning. But I.... in all honesty.... I believe he could pick up the telephone and find out exactly what's on the test. As a matter of fact, I want to say that he told me he had talked to her.

Q: Well, he had to know in advance.

A: Sure.

Q: So that must have....

A: Well, he reviewed the test. He looked at it and he made that comment to me that he pretty well knew what was going to be on there.

Q: And that's a violation of policy, to say the least.

A: Yes.

Q: Alright, you've mentioned Findley, Nash.... who else do you think might have had a rigged test?

A: I would venture.... this may or may not come as a shock to you. I would....

28 The daughter of a prominent Tyler restaurateur, Red Acker, was once employed within the Tyler Civil Service Examination office.

Q: I want to interrupt to substantiate that I'm merely asking for your opinion.

A: Okay, in my opinion, I would say that there was nobody promoted within that department who wasn't hand picked.

Q: During that period?

A: During that period.

Mike Lusk was promoted to sergeant under these "unusual" circumstances in December of 1978, the same month that Willie Hardy had risen to power within the department. If his testimony bears the basics of truth, it clearly suggests that Hardy wasted no time in exercising his new power and establishing his own standards of ethics. It is apparent that questions about the validity of the Civil Service examinations were not limited to the statements of Mike Lusk. For those doubting Lusk's credibility, it should be noted that former Tyler Police Department Lieutenant, Ronny Scott, now the Chief of Police in Lone Star, Texas, made an equally interesting observation as I was saying my farewells after an interview in November of 1983. I had informed Scott that I intended to interview Mike Lusk in Houston within a few weeks, and his face visibly brightened.

"Do me a favor while you're down there, will you?" he asked eagerly. "Ask Mike if his promotion wasn't rigged. I've always believed that there was something that really smelled about that test. See if he won't level with you and then call me and let me know. I'd sleep a lot easier if I knew for sure that what I've always suspected was true or not."

Within weeks, I was able to call Scott and inform him that Mike had confirmed his doubts, and I trust Scott's nights are spent a bit easier with the knowledge.

It was within the web of the new intrigues of the police department that Matthews now attempted to operate. It was now 1979 and Kim Ramsey was out of school in Dallas and was visiting Tyler frequently, often joining Matthews in his role as Jim Myers and using her past experience to assist in gaining information from suspects. She had no authorized position within the department to take such a role, but she did so as a gesture of her allegiance to Matthews and as a supporter of the code of lawmen who never truly lay down their badge, but remain ever vigilant, no matter

where they are. Slowly, her role became more active and it was apparent that together, Matthews and Ramsey could make quicker, deeper inroads into the culture of the users and dealers than Matthews could ever achieve alone. Creig introduced Kim to Hardy, and it was equally obvious that the new chief liked Matthew's companion, accepting the concept that they would work better as a team.

From time to time, Matthews would suggest to Hardy or Lusk the advantages of having Kim as his partner. Subtle hints, nothing direct or demanding, but the message was nonetheless clear. In the meantime, she would continue to be his partner in a non-official capacity and would prove her merit by giving aid to Matthew's goal of pinpointing the presumed fact that Ken Bora was a major dealer and crime figure.

"It'd sure make things easier if Kim was certified," Matthews suggested to Lusk. "The people I'm trying to make are in a different class than the ones she's making contact with. Kim tells me that she's certain she can make cases on those folks too, and I don't even know them. But, without her being a police officer, she can't really do it. It's just that I know that if she was certified to work with me, we could make a helluva lot more cases."

Lusk had listened intently and had relayed the information to Hardy. The chief used his next meeting with Matthews to ask, "Who is Kim getting in with?"

Matthews laughed. "Well, Tim McGuire's really coming around now. It's pretty apparent that he has the hots for Kim. She could make a case on him just about any time she wanted."

Hardy nodded with a smile. "She seems sharp enough," he offered. "I'll think about what we might do with her."

The foundation was laid. The door was beginning to open and Creig smiled with the knowledge that he would soon be working again with his old vice partner from the days in Plano. Those dismal days he would rather forget.

"How is this thing gonna' work when it all comes down?" asked Matthews. "Is the sheriffs office aware of what's happening?"

Hardy chuckled. "Hell, no. And they're not going to know anything about it. We do this thing on our own. Nothing from the DPS, DEA,²⁹

29 DPS: Department of Public Safety.... DEA: Drug Enforcement Agency.

the damned sheriffs office. Letting J.B. Smith³⁰ in on it would be the kiss of death."

Matthews frowned. "What's the deal with Sheriff Smith?"

Hardy leaned back, broadening his smile. "Smith shot his wad with the Gresham Pasture Incident about a year ago."

The young narc shook his head. "The Gresham Pasture Incident? What the hell's that?"

The chief only laughed. "It's too long to go into now, but believe me, J.B. Smith hung himself with that one!"

- ● -

Frank Perkins was a quiet man, cast from the East Texas mold where the principle of rural life is to mind one's own business. But on this night, Sunday, October 29, 1977, there had been the telephone calls from neighbors asking if he knew what was taking place on the land belonging to Dr. James Wood. The land was a sparse pasture some distance from the Perkins' homestead, but Mr. Perkins made it his business to drive to the scene to witness the long succession of vehicles driving in and out of the gate on Richmond Road, their headlights glaring against the other vehicles parked within the pasture. There had been staccato bursts of noise, loud music, and sudden squeals accompanied by eruptions of laughter. In the small, rural area of Gresham, Texas, such gatherings were uncommon and abrasive to the usually quiet nights. It was well to mind one's own business, but the times were changing and Perkins pondered on what should be done. He could call Dr. Wood, informing him of what was taking place on his property, or he could call the Smith County Sheriffs Office and have officers investigate. Either action would require a telephone call to Tyler. Weighing his choices, Perkins decided to call the Sheriffs office. Why disturb the doctor at such a late hour? Anyway, he would probably get an answering service if he tried to call Dr. Wood, and he never liked the protective barriers doctors built around their privacy. Yes, he would call the Sheriffs office.

Within the field, the youths laughed in small knots of activity. The

30 J.B. Smith was the Republican sheriff in office within Smith County at the time.

gathering had not been planned, but had simply evolved. Mark Wood had suggested meeting in the pasture. After all, his father owned the land and he was entitled to its use. There could be no harm in parking a few cars there, no damage could come from that. Someone, perhaps more than one, had brought a quantity of beer packed in ice chests within the trunks of their cars. That had not been a part of the original plan, but had, too, simply been a byproduct of a spontaneous idea. Meeting within the pasture was considerably better than "cruising" Broadway and it was far from the scrutiny of peers and police alike. The pasture would be their temporary haven.... an adventure. They would meet there, hear the coarse rhythms of rock music, tip cans of beer from ice chests, and steal kisses beneath an October moon. By all normal standards, the gathering was not offensive or unusual, but this was Smith County and the unusual is often synonymous with evil.

Lieutenant Ron England heard the dispatcher's response to Perkins' call and informed him that he would personally handle the matter. The Gresham reserve deputy, John Turk, would be contacted and instructed to meet England en route. Together, they would go to the pasture and determine the nature of this unusual activity. In the back of his mind, England considered the recent influx of narcotics in the county. The Gresham area had been patrolled only nights before in response to a rumor of a clandestine drug deal. Perhaps a gathering of this size was a meeting of the area's drug dealers. Secretly, he hoped so. Whatever it was, however, Gresham's citizens were complaining and it was his duty to respond.

England was a veteran of the department. Smith County's Sheriff, J.B. Smith considered him among his best officers and he went about his work methodically, a stickler for details. Cases requiring intense investigation were assigned to England, for Smith knew special attention would be given to the finest points and each progress report would be factual and complete. If England had any failing, it was found in his disposition. Paper work was one thing, but emotional responses to stressful situations was quite another. England was a bit too quick to take action.... a reactionary. But the department was undermanned, an alarmingly low officer-to-citizen ratio, and England was, at the moment, the only officer available to answer Perkins' call. Formerly with the Tyler Police Department, England's spontaneous nature had earned him the nickname of "Mad Dog." Street wise youngsters still referred to him by this ancient title.

As they turned into the gate leading to the pasture, England and Turk were greeted by a vehicle attempting to leave the scene. The squad car was strategically placed in front of the gate and for a

moment, the patrol vehicle and the late-model sedan driven by a teenager faced each other, . their headlights joining in a luminous defiance. England switched on the emergency lights and the red glare filled the pasture. He could hear motors starting and saw a sleek pickup roaring toward the rear fence of the pasture in billowing dust. The youth backed his vehicle from the gate and England and Turk stepped from the squad car, leaving it as a barrier against any attempt to leave.

The youth obeyed when England ordered him to step from his vehicle and the officer spied a large congregation of young people moving toward him. Their mood was ugly and even at the distance, he could hear their cat-calls and challenges to his authority and right to be there. As they neared, their anger seemed to mount, forcing England to rest his hand upon his holster and cast a quick glance in Turk's direction.

"What the hell are you doing out here, England?" demanded one youth. "This is private property! You don't have one damned bit of right to be out here!"

"Yeah, get the hell outta' here!" screamed another.

In that moment, England recalled the discipline required within the manuals dealing with crowd control. Always keep control, stay in authority, be dominant in the face of being outnumbered.

"We got a complaint about noise and traffic out here," called England.

"He got a complaint!" sneered a young girl. "Well, we've got a complaint, too! You've got no business out here, mother fucker!"

England felt the blood rushing to his cheeks, but calmly turned to the girl, glaring at her intently. "Step into the back of the squad car, Miss," he commanded.

"Fuck you!" she retorted, and the crowd cheered.

With a quick movement, England grasped the girl's arm and moved her to the side of the squad car. "Step inside, please," he repeated.

A young man with hair touching his collar stepped forward, his fists

clenched. "Get your hands off of her, chicken shit! You just take your hands off of her!"

England turned quickly without releasing the girl's arm. "Do you want to get in here, too?" he questioned.

"Do you know who my father is?" inquired the boy.

Ron England examined the boy's face. Yes, he recognized him and could easily identify his father. A rapid inventory of the angry faces before him quickly informed him that this was no ordinary gathering. Here were the sons and daughters of some of the better known families of Smith County. He could identify the son of a well-known local physician; the son of a prominent Tyler attorney; the son of an Assistant United States Magistrate; the son of yet another physician. No, this was no ordinary gathering.

In that moment, he wanted to call Turk and have him make contact with the office. His eyes darted around the scene for his partner until he spied the man standing farther toward the center of the pasture, shouting for vehicles spinning wheels through the pasture to halt. The pickup still hurled small stones from beneath its wheels and Turk repeated his command for all the cars and trucks to halt. Soon, all but the pickup, turning erratically through the field, stopped. In protest to its defiance, Turk drew his weapon and fired it twice into the earth. With the sound of the gun's report, the crowd hushed and even the errant pickup halted.

"Jesus Christ!" moaned one young man, "The asshole's shooting now!"

Slowly, as the shock of Turk's action took roots within their senses, the crowd began to issue protests even more irate.

"Hey, man! What right do you have coming out here and shooting the place up? What the hell right do you have?"

Turk now walked nearer England and with whispers was informed to contact the office requesting backup units and to have the dispatcher contact the Sheriff, informing him of what was happening and asking what should be done with this gathering of the area's elite children.

Within minutes, additional vehicles including Texas Department of Public Safety officers arrived at the scene. It now resembled a major hostage incident with the region ablaze with the blinking, circulating lights of the patrol cars. The dispatcher had responded and now droned over England's unit that the Sheriff advised to contact the parents of the youngsters and release them into their custody.

In a long endeavor, the dispatcher now began placing calls to the parents of the youngsters still detained within Dr. Wood's pasture.

Within minutes, the parents arrived, listening to the tales related by their children and casting angry glances toward the officers. England watched the youths parade before the officers, giving their names and telephone numbers to be relayed to the dispatcher. "Oh, shit!" he muttered, "that one's the son of Judge Phillips!"

When parents were not available for contact, the offspring was released and advised to go directly home. The encounter had now been reduced to mechanics, making lists and taking information. It was no longer the crisis it could well have been. With the departure of the last youth, the officers sighed, believing that the Gresham Pasture Incident was finally over.

To the youths involved, the pasture incident was inexcusable. The group had been largely comprised of members of a rodeo club sponsored by the activities network of Robert E. Lee High School. Earlier that evening, they had attended a rodeo, participating in competition, and finally wanted simply to gather and wind down from the excitement. They had mingled freely and spoke of the forthcoming football game against rival John Tyler High School. Some of the group had brought some beer, but to their knowledge, there had been no drunkenness or anything disorderly prior to their encounter with England and Turk. They, above all, could not condone the firing of the pistol by Turk. That was an act of such potential violence that it suggested a danger they did not want to contemplate. If they were disturbed, their influential parents were openly irate.

The day after the pasture encounter, a group of citizens filed into the office of Smith County Sheriff J.B. Smith demanding that something be done about the officer, who, they claimed, had displayed such poor judgment while endangering their children. The sheriff reviewed those before him, appalled with the gathering of such influence. Before him stood the angry faces of those with social power, political power, financial power and that indescribable power coming from the simple source of stature. Yes, it was truly a formidable group.

By the time their tirades had ended, Sheriff J.B. Smith had conceded

to dismiss Ron England and to suspend John Turk pending further investigation. The group seemed satisfied, however reluctant to admit it. By the time the workday had ended, Smith had kept his commitment and England and Turk were officially removed from the ranks of the Sheriffs office.

In the annals of Smith County, few men have had the devastating impact of J.B. Smith. Citizens and officials alike either admired or hated the Sheriff. There were few who could claim the middle ground so common to one of lesser influence upon city or county affairs. He was either hero or villain, friend or foe, saint or sinner, but never anything in between. A robust man with hair as black as a raven's wing, Smith sported a finely trimmed mustache and had the flamboyant flair that caused many to suggest he was one envisioning himself as a "ladies man." If the claim was true, it was also known that Smith had no small degree of success in his pursuit of romantic flights of involvements. Those claiming Smith was a skirt-chaser were more often than not, women.

Perhaps the reason opinions were so widely divided about Smith was that few people knew the man beyond the contact as an official of the county. Few knew that J.B. Smith was reared in Arkansas in a surrounding of poverty of such degree that its like could be found nowhere within north Tyler. The son of a single parent, Smith was taught of humility and the vast separations between the down-trodden and the affluent who would always make use of those of lesser fortune. Inherently, he had a distrust and the hints of a dislike for those of influence and power. He could only recall the many instances within his own life when he was deprived and cast into the hopeless role of one without avenues of escape from poverty. He could never forget such moments, and his empathy would always be with those who now endured many of the same conditions he had learned to recognize so well as a youth. That he could have risen from such despair to become the Sheriff of Smith County, or any county anywhere, was a feat of enormous pride to him, for he loved his work and welcomed any opportunity to be of service to those who least expected aid from any source. He hated crime with a passion, but hated as much those social conditions that often prompt youngsters into lives of criminal activity. His thoughts, ideals and emotions stemmed from the innate idealism that flows from a youth of deprivation, and he never

dismissed his standards from his being, thus making the encounter with the area's elite even more abrasive to his spirit.

J.B. had slept little that night. He had attempted to close his eyes and forget the happenings of the day, but found that it was impossible. Instead, he pulled himself from the bed and made a pot of coffee. In the darkness, he sat in a chair and permitted his mind to wander over the content of many things. He thought of his mother and her many axioms that had guided him through the years. "You may never be able to be any of the things you want to be," she would say firmly, "you may never be rich or famous or powerful. But the one thing you can always be is honest and honorable. In the end, that will make you richer than anything else."

He thought of his broken marriage and of his children. At the time of the Gresham Pasture Incident, he had been still united with his wife, however fragile their relationship may have been. It was at that same time that the final breach occurred and he was now in the unfamiliar surroundings of a small home he had purchased long ago in the nearby community of Red Springs. The incident had played no part in their separation, but he now felt desperately lonely. Perhaps he could not sleep because he would want to turn and touch her, to know that there was the symbol of love beside him. Now, there was nothing. There was only the ugly spectre of the angry people before him, shouting their objections to the events happening within a truly minor affair.

He recognized that he felt anger. Of course, he was angry with those who had challenged him and exercised their power, flaunting it before him. But the anger was something different.... something more. Yes, he knew, he was angry with himself. He had failed himself, and in doing so, had failed all of the teachings of the mother who had reared him with the strict code of values that prescribed that no man should cower before power, but should display the strength to uphold whatever was truly right. Had he done that? In the darkness, he shook his head. There could be no question now about what he must do. It was not a question of what was politically sound or safe for his official future, but it was the greater issue of maintaining his dignity and upholding all he had been taught to believe. No, there could be no question of what must be done, and he smiled slightly and returned to his bed to find a peaceful, deep slumber.

With his arrival at his office in the morning, Smith immediately

reinstated Ron England and called a hasty press conference of Tyler's only daily newspaper, The Courier Times-Morning Telegraph. Once the reporter and photographer were present, he firmly announced: "These children and their parents came demanding blood. They kept hitting at me until I was backed into a corner. I'm human, I make mistakes. But I've been backed to the wall, and now I'm going to come out fighting.

"I've taken all the abuse from these people I'll take. I'm tired of being kicked around by spoiled brats and spoiled parents who think their children can do no wrong. The public doesn't have to put up with this just because the people involved are children of the elite.

"If these parents are so irate they think they can have my job, they're welcome to it, and next term, you can have a new sheriff. But while I'm in office, there won't be any dual standard of law enforcement."

England was returned to his duties while John Turk tendered his resignation in the wake of the turmoil. Smith, meanwhile, sat back and waited for the tidal wave of indignation that was surely to come. He reviewed the official reports of the incident and sighed with the power of the families involved. There had been the sons of two district judges in the pasture; the son of Charles Clark, a powerful Tyler attorney and former sidekick of Ronnie Malloch; the son of Houston Abel, an Assistant United States Attorney; the sons of two prominent physicians; the son of Constable Edgar Shelton, and about sixty other youths comprising the list. Yes, there would be repercussions.

Never before had the power structure of the city been so openly challenged and the wheels of organization swung into immediate action. Parents meetings were held and plans designed to oppose Smith and his stance against them. Their influence and wealth would be incorporated to correct this miscarriage of justice at any cost. Creative parents suggested that all the parents involved wear especially-designed T-shirts with a large black splotch on the front with printing declaring, SPOT: Spoiled Parent of Tyler. Others planned actions far more devastating.

On November 8, 1977, Judge Glenn Phillips issued special instructions to the Smith County Grand Jury currently convened under the jurisdiction of his court. In the system of the county, the grand jury was placed under the auspices of courts in a rotating cycle with three judges taking alternate authority over their hearings. During this period, the

grand jury was under the auspices of Phillips. The instructions were explicit and alarming:

"Much has been publicly proclaimed through the news media about this incident (Gresham Pasture)³¹ and a substantial part of such proclamations apparently are incorrect and not consistent with truth and the law.

"Based upon complaints of teenagers and parents and upon public statements issued by Sheriff Smith in the news media, it would appear that there might have been violations of the law occurring in the pasture near Gresham on October 29th either by the teenagers or by the Sheriffs deputies of the laws they are sworn to uphold. There also appears to have been an intentional "smear" and "coverup" relating thereto and persons innocent of any wrong-doing have been indicted in the eye of the public misunderstanding of the circumstances. The Court feels that a full, fair and complete investigation must be made by you in the overall interest of proper law enforcement.

"Your investigation should include but not be limited to whether or not a violation of any of the following laws occurred:

- (1) Aggravated assault, assault, a Third Degree Felony, Texas Penal Code Art. 22:02
- (2) Assault, a Class A and Class C misdemeanor, Texas Penal Code Art. 22:01
- (3) False Imprisonment, a Third Degree Felony or Class B misdemeanor, Texas Penal Code 22:02
- (4) Official Oppression, a Class A misdemeanor, Texas Penal Code Art. 39:02
- (5) Minor Unlawfully Possessing or Consuming Alcoholic Beverage, a Class C misdemeanor, Texas Penal Code Art. 666-17 (14)
- (6) Disorderly Conduct, a Class B or Class C misdemeanor, Texas Penal Code Art. 42:01

31 Parenthesis added by the author, not appearing within the written instructions issued by Judge Phillips.

"The news media reflects that my son was one of the teenagers involved. I was called to the scene by the Sheriff's office, as were dozens of other parents. When I arrived, my son had been previously released by Sheriff's deputies and had departed. I was assured by Deputy Sheriff England that my son had not violated any law and was for that reason released. I left and have not talked to any member of the Sheriff's office about this incident since that night and was not at the highly publicized meeting in the Sheriff's office that he made so much public clamor about. My son is neither "elite" nor a "spoiled brat." He is an honor student, a letterman in sports in high school, a football player and baseball player presently being recruited by some nineteen (19) universities. He has never been a disciplinary problem at home or anyplace else. If your investigation reveals that any violation of the law was committed by my son, he should be charged accordingly."

Now, the gears of Smith County justice were placed into full motion. It was an ominous act, indeed. The pages of activity were turning so quickly, it was difficult to comprehend the message contained within all such deeds and even more difficult to recognize the unique ironies they contained. Only a few months after this proclamation by Glenn Phillips, pallbearers for Ronnie Malloch would be composed of personalities who would also become embroiled in the events that were yet waiting upon the horizon. Charles Clark, Willie Hardy, Leo Britton, Kenneth Findley, Ed Wagoner, and Galloway Calhoun. Fate was already prescribing omens of what was to come, and the opening chapter was written by the Honorable Judge Phillips in his commandments to the Smith County Grand Jury.

It does not require a legal expert to recognize that had the citizens of Smith County not been so apathetic.... if they had been publicly spirited souls bent upon the true administration of justice.... the use of the grand jury by Phillips could have been challenged before the state review board monitoring the actions of state judges. It was apparent that one of the prime motives of this act was to relieve Pat Phillips, the judge's son, from any suggestion of guilt stemming from the Gresham Pasture incident. Young Pat was already finalizing plans to attend the prestigious Air Force Academy in Colorado Springs, Colorado, and any scar upon his reputation could have canceled his appointment with such an elite institution.

Still, the public remained silent. Learned attorneys failed to protest the action, perhaps out of fear of what consequences could await them when they appeared thereafter before a hostile Phillips in the 241st District Court. No one protested, and as always within the

county, the distortions of truth and justice were fertilized with the flavor of justice.

An analysis of Phillips' instructions promotes questions that, however belated, should have been presented at the time of their submission: First, Phillips declares as a matter of fact, ". . . this incident, and a substantial part of such proclamations apparently are incorrect and not consistent with truth and the law." One must immediately present the query of how Phillips determined that statements made to the news media violated "truth and the law?" In a discipline demanding evidence for all the allegations, the judge seemingly rises above such demands and requires the grand jury to accept such charges on the basis of his own findings or opinions. Without such evidence, it is only reasonable to conclude that they were, indeed, merely opinions. Even more mystifying is how such comments that had been "publicly proclaimed through the media" had, in any way, composed a substance "not consistent with truth *and the law*." Is it now illegal for one to issue public statements?

Judge Phillips' special instructions become even more intriguing as they progress. "Based upon complaints of teenagers and parents and upon *public statements issued by Sheriff Smith in the news media*, it would appear that there might have been violations of the law occurring in the pasture near Gresham on October 29th either by the teenagers or by the Sheriffs deputies of the laws they are sworn to uphold."

In reviewing the public statement of J.B. Smith, this comment by Phillips becomes downright perplexing! Smith's only reference to any wrong-doing was confined to his observation that, "I'm tired of being kicked around by spoiled brats and spoiled parents who think their children can do no wrong." The statement in no way charged that a violation of any law had taken place, only that parents and their offsprings appeared to believe that it was impossible for any wrong to ever have been done. To state that he was confronted by parents who believed their children were incapable of doing wrong does not, to any rational mind, suggest that the youths had, in fact, violated the law. Yet, within the official records of the court, Judge Phillips submitted this distortion and

entered it as a matter of factual record, and it was duly accepted by all. One must pay heed to the mandates of a legal system where charges levied against any party must be supported by evidence or testimony. Yet, Judge Phillips continued in his instructions by charging, "There also appears to have been an intentional 'smear' and 'coverup' relating thereto. . . ." Nowhere within the content of his instructions did he feel obliged to define the nature of this alleged "smear" or "coverup." It was an indictment of innuendo, unsubstantiated by one attuned by his academic and experience to believe in and demand evidence. Without such supporting evidence, the allegations of a "smear" and "coverup" remain as those silent indictments common to regimes where totalitarian states are entitled to condemn without cause, and not required to define or prove their charges. It was the voice of power, and the county was taught by its history to pay heed in silence.

The judge proceeded then to outline six specific laws that may, or may not, have been violated on the night of October 29th. An examination of these charges produces some fascinating insights into the motives and purposes of manipulating the grand jury within this proposed investigation. Of the six charges, four were directed toward the officers responding to the call at the pasture that night. Aggravated assault stemmed from the claims of some of the teenagers that they had been forced against squad cars and detained forcibly. Assault found its source in this same allegation. False Imprisonment could only be reflected toward the officers as the teenagers had no authority to falsely imprison anyone. Official Oppression could only be charged against officials. The remaining two charges were the minimal offenses ranking at the lowest ladder of the states' system of categorization, Class B and C misdemeanors. These would be the offenses the judge commanded the grand jury to probe in relation to the teenagers, but for the deputies on the scene, the judge prescribed potential violations of two felonies and four varying classes of misdemeanors! This is the equal distribution of the law? By his own admission, he had not discussed the matter with any member of the Sheriffs office, yet mystically failed to consider the possible violations of laws governing resisting arrest, obstructing an officer, disturbing the peace, inciting a riot, or a host of other offenses that could have fallen within the realm of possible charges stemming from the incident. Even though it was well known that the

officers alleged that the youths had been verbally abusive, the judge somehow could not consider this as a deviation from the high moral standards taught by his parental peers to their children. It was in no way suggestive to him that perhaps there was a flavor of truth in Shakespeare's observation, "Thou protests too much."

If Judge Phillips was to convince the grand jury that his son "is neither elite or a spoiled brat," he did little to confirm that posture in the resume of his son's qualities. None of the other children involved in the incident were afforded such exemplary references, and that is elitist treatment by any standards. If his statements were concluded with the instruction, "If your investigation reveals that any violation of the law was committed by my son, he should be charged accordingly," it is not difficult to envision a jurymen viewing that instruction as a dare as much as an instruction. If the 20 words of this instruction to charge his son of any discovered violation was to have any impact, it certainly could not counter the 150 words utilized to exonerate him within the official instructions to the jury.

The grand jury proceeded with its prescribed duties and conducted a probe of the Gresham Pasture Incident. Within a short period, they returned the findings that they could discover no violations of the law by any parties, a decision that again rankled the offended spirit of the county's elite.

The matter could not end there. The Gresham Pasture Incident would have to be exploited to demonstrate what power could truly do and to determine forever that it could not be openly challenged. The influential parents then called upon the American Civil Liberties Union, lamenting that the civil rights of their children had been violated within a deserted field by oppressive law enforcement officers who wielded their power indiscriminately by firing weapons and man-handling children. Officials of the ACLU pondered the matter but soon reported that they had bigger fish to fry, that the Gresham Pasture Incident would not be placed upon their agenda.

It was inconceivable. The power structure reeled with the rejection and was bewildered with the prospect that J.B. Smith could escape his opposition to them unscathed. Something would have to be done. Always before, something would have been done by now, and they could not understand a changing world where systems and values placed aristocracy

as a lesser priority. This time, they would reach for a higher authority. Robert Stevens, local agent of the FBI, was asked to investigate the matter and to bring justice to Smith County's youth. Certainly now there would be chilling revelations of fear to J.B. Smith, for the federal government would present the highest authority and demonstrate to what lengths the power structure would go to redeem their ancient values and position. The spirit of defiance was broken when Stevens returned his findings that too little evidence existed to introduce the federal courts into the matter. Stevens was no fool, Washington would laugh him out of the bureau if he suggested a full-scale investigation into an event of such little consequence. Diplomatically, he excused himself and his agency from the matter.

There was nothing left. The elite resigned themselves to the fact that there were no avenues left to explore, no routes toward vengeance. They could only remain silent now, waiting for that eventual day when they could exercise their power as a reminder of Gresham. They would deplete Smith's campaign contributions and seek retribution at the next election. In the meantime, they would remain ever vigilant. If Smith's conduct should ever hint of any wrong-doing, they would again be heard. It was a collective promise, and one that would not be forgotten.

The Gresham Pasture Incident was now closed. It remained but a symbol of something greater. It could not be a victory for J.B. Smith, but would have to be the silent cry of unity to those who would someday oppose him. It would be a mistake to view it as a signal of weakness, for it was but a specimen of the changing times, and not reflective at all of the species of the power within Smith County.

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The community of narcs is akin to a fraternity. There is an alliance between them understood only by those who have operated in the never-never land of undercover operations. Only they comprehend the methods and emotions spent in such operations, thus they are joined together in a strange bond of loyalty that transcends most common friendships. Within that fraternity, two of Creig Matthews' closest friends were Troy Braswell and Ricky Silvertooth. Both had operated extensively in the sewer world

of undercover. They had been high on the list of successful operatives and had assembled a long and impressive chain of convictions. From time to time, they would maintain a casual contact, always cautious not to infringe upon whatever secrecies existed within the context of their work, but they nonetheless kept some form of relationship. On the night of January 18th, contact with Braswell and Silvertooth was re-established by a frantic telephone call from Kim Ramsey. She informed them that something was terribly wrong with Creig, that she needed their help immediately. Both responded with haste.

Matthews had worked that night at the Point 21 and after work had relaxed with a Kaluha and cream. The moment was casual, one of those in which everything was so normal that it didn't seem important to note which persons were present, who might be a potential enemy. It was a moment of weakness, one which a narc can never afford. Matthews consumed the drink and prepared to leave for the night. Within minutes, he felt nauseated and rushed home to find comfort in his own bed. At that moment, he assumed that he was coming down with the flu or some other minor ailment that often brought an upset stomach and a general weakness. By the time he reached the apartment, however, he found it difficult to put the key in the door. Kim noticed something was wrong immediately, but Creig only fell upon the bed, breathing violently, speaking of the strange visions that were invading his mind. His head rested on a pillow where a pillow case had printed designs including the images of tropical animals.... lions, tigers.... the sight of it oddly filled him with fear and he panicked with the thought of having it so near to him. He fled to the bathroom where he locked the door and began talking loudly to himself. Within minutes, he retreated from the bathroom, locking the door behind him as if fearing some danger that lurked there. He sat upon the bed and began engaging in a conversation with the picture of Kris Kristofferson on the front of an album cover. Suddenly, he quit breathing and Kim rushed to revive him with cold water and icy compresses. His breaths returned in agonizing jerks, his face contorted with pain and fear. "Oh, God," moaned Kim, "you've OD'd on something!"

Creig slowly shook his head, forcing some framework of logic into his mind. "Someone's got me, honey," he moaned. "My drink...."

Kim continued her efforts to keep Creig controlled, even when he

wanted to obey his irrational urge to disrobe and go outside. She fought to maintain his sanity and to confine him within the apartment. When he relaxed slightly, she placed calls to Silvertooth and Braswell indicating that Matthews had been overdosed at the club and that she needed help in watching over him.

Of the narcs that assembled in Matthews' apartment that night to maintain their vigilance over their fallen peer, Ricky Silvertooth was probably the most dramatic of characters. He had worked as a highway patrol man with the State of Texas for five years before entering the field of narcotic investigation. For four years he operated as one of the state's most successful narcs until the night he kept a rendezvous with drug dealers in a San Antonio park. He had not been there long when one of the dealers shot him in the hand, the back, and then fired what was intended to be the fatal shot into the back of the head. Silvertooth lost much of his eyesight in the attack, but recovered to be retired from the state's employ and to receive retirement benefits for one wounded in the line of duty. Now he was a private citizen, self-employed and living in a realm far from the slime of undercover operations. Even so, when a comrade called, he was the first to respond, and he did so that night with alarming speed.

Throughout the night, Kim, Braswell and Silvertooth kept guard over Matthews, comforting him in his moments of pain and controlling him in those violent times when the effects of the unknown drug revealed itself in exotic impulses.

"It's PCP," observed Braswell. "Angel dust."

Silvertooth nodded his agreement. Only Angel Dust had the type of effects demonstrated by Matthews. Perhaps other substances would have produced behavior similar to that displayed by Creig, but the men were experts in the field, recognizing the subtleties of each substance, and their opinion was firmly supported by one another.

Silvertooth felt a special compassion for the moment. His mind could not help but return to another time, another place. He was later to state, "I met him (Matthews) on a couple of occasions while I was in the Dallas area. I was working for DPS (Department of Public Safety). I believe he was working for DEA (Drug Enforcement Agency) or with DEA. After I got shot, he visited me, I believe, a couple of times in the hospital, and

then I moved back to East Texas and he visited me a couple of times while I was living here in East Texas." It was a favor being returned. An act of compassion once issued now demanding an equal compassion for one who cared in a time and place when few seemed to.

When Kim had called for their assistance, she indicated that she thought someone had slipped Creig a dose of LSD. Only the expert views of the two narcs identified the substance as most likely being PCP.

Silvertooth was to describe the night by saying, "He was trying to get up and go, leave. He was acting very crazy, hollering, screaming, didn't know where he was at. I just corralled him and kept him there."

The long hours of the night passed and finally Matthews succumbed to sleep. With the dawn, he appeared to be much improved and Kim called Willie Hardy to inform him of the incident.

"Keep an eye on him," said Hardy, "and when you can, bring him by so I can have a look at him."

Later, arrangements were made for Hardy to visit with Creig and to view for himself the effects of the overdose. It was apparent that Matthews was shaken and nervous, not fully in control.

"I think I'm going to have to go to a hospital," said Matthews. "I don't think I can handle this without some help."

With Hardy's approval, Kim and Matthews left Tyler for Dallas where they would seek medical attention. The details were later described by Matthews and Ramsey:

Matthews: I'm saying it was PCP because of the effects I had from it. It was placed in my drink. I'm assuming it was Mike Watson³² because he was standing there at the bar, double screwed up that night. He was a pretty streetwise guy. That certainly would have been a good test to find out (if Matthews was a narc) .

Ramsey: Watson and McGill knew each other. McGill later made the statement that they just wanted to see him (Matthews) set off. McGill was talking to me about it, I was taking him over to introduce him to Jim Myers and McGill said he heard he might be a narc. I told him I had been living with

32 Watson was later to be indicted on drug related charges.

him the last several months and that I had known him for years. I said he was slipped something that almost got him killed a few weeks ago. I said someone OD'd him in the club. He said, no, we just wanted to see him get off. Matthews: I almost did. I was at the club, and I drank this one drink, Kaluha and cream. I did some snow before I went to work to set up for work. But this was about four hours later and I started getting off. It was obvious somebody put something on me. At first, I thought it was acid. So I came home. I don't know what happened after that. It was weird.

Ramsey: He was just spaced out totally. He started getting sick. He stopped breathing a couple of times. It was to the point I had him on the floor getting ready to start CPR and he came back around. Then he said, 'I've got to go outside. I got him to lay down on the couch and he started talking to an album cover of Kris Kristofferson.

Matthews: And then he starting talking back.

Ramsey: That's when I called Troy and Rickey. I said I needed some help, Creig's overdosed. I called Hardy that following morning and told him that Creig had been overdosed, that we didn't take him to the hospital because Creig was buying dope off one of the nurses at the hospital. He (Hardy) was just his usual, calm self. He said, Can you handle it? I said I could take care of it. The following Sunday, about three or four days later, we went out to Troy's to watch the Super Bowl and on the way out there Creig was having trouble because of the movement of the car. He was still hallucinating slightly. About halfway through the game, he said he couldn't handle it any more. So we called Hardy and told him we were taking him to Dallas to the hospital. He said, fine, go ahead.

Matthews: He (Hardy) thought it was great as far as the investigation was concerned. If I continued working no one would think I was a narc. They had a former officer, Mickey Spencer, who had been OD'd by Steve McGill. When

Mickey got overdosed, they terminated the investigation immediately. At that time, he hadn't made any cases. He was also targeted on Ken (Bora) and Frank (Hillin). Since they had done that with Mickey, Hardy thought it would be great. If we don't bust out, nobody's going to think you're a narc. He thought it would help my credibility. I told Ken (Bora) I wasn't coming back until I found out who OD'd me. He was standing behind me the night it happened. He said it was a bad deal. He was upset about it.

For almost a week, Matthews was a patient in Dallas' Brookhaven Hospital where basic treatment was applied for his recovery. He was released and returned to Tyler, but was later to admit that he was never the same. The incident had affected his nerves, his ability to make those rash, impulsive actions necessary to such a precarious line of work. It was a different Creig Matthews now, but only he would know the dimensions of that difference.

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The structure of orderly government was now openly suspect. It was the subject of locker room gossip within the police department that promotions were rigged and the fair-haired boys were elevated at will. Observers, however silent, of the transactions surrounding the Gresham Pasture Incident could only shake their heads in wonder, pondering on the directions of a legal system so clearly defined and so regulated. Rumors flowed suggesting that a white-haired Tyler oilman had delivered a large sum of cash to a city official (Malloch?) in a secret meeting³³ at the

33 Throughout the course of the research of this book, the tale of the illusive white-haired oilman continued to emerge. Always, the details of the alleged event were the same: the oilman met with an official of the City of Tyler at the Petroleum Club and handed over a black briefcase filled with an amount of cash reported to be somewhere between \$100,000 and \$140,000. There were many theories concerning why this mysterious oilman should have been so generous. Most lacked in basic logic. One however, had all the elements of a reasonable scenario. This theory (related as fact, of course) prescribed that during the undercover operation at Robert E. Lee High School, it was discovered that the son (or daughter?) of the oilman was deeply involved in drug usage. The oilman then was torn between two instincts. First, he wanted to protect his child from prosecution. Second, he wanted drugs cleaned up within the city. The rest is simple. For a large donation, his child would not be prosecuted and the money would be used to rid the city of drugs forever. Not a likely scenario, but the most plausible of the group.

prestigious Petroleum Club. Whispers softened with the gossip that a man and woman had been imported to deal within Tyler's drug culture, building cases all the while for a pending drug bust.

If all such allegations were unfounded, there occurred a singular event that would pace them back into the realm of stark probability. By early February of 1979, Kim Ramsey had made extensive inroads into Tyler's drug community and was now operating openly, however unofficially, as an effective narc using the alias, Karen Brooks.³⁴ With her support, Creig found other doors quickly opened and finally felt that he was making progress toward concluding the investigation. Bora still remained as an elusive target, but at least cases could be made on a host of others within the city, and it pleased him. Among his prime contacts had been Marilyn Richards, a nurse employed at Tyler's Mother Frances Hospital's Intensive Care Unit. Richards would indicate on hospital records that pain-relieving drugs had been administered to terminal patients, and then would market the drugs to Matthews. It was not a major supply by normal standards, but it was a violation of such humanitarian dimensions that Matthews was determined to place Nurse Richards high on the list of his prospective arrests. Richards, from time to time, would also relate additional information about the location of more drugs, and it was this source that led Matthews and Ramsey into a situation that was later to prove to be a major barrier in establishing their credibility.

Marilyn Richards had mentioned to Creig that she knew where there was seven ounces of pharmaceutical cocaine kept in the office of a Tyler physician. Matthews kept this bit of information within his mental files and stored it under the category of "future sources."

Throughout January of 1979, Kim and Creig had worked together as an effective team. She was able to use her charm, good looks, and articulate tongue to gain entrance into circles that Matthews had been denied.

34 For some unknown reason, Kim Ramsey had decided to adopt her sister's name of Karen Brooks as an alias for her undercover role.

The reason was simple. Matthews had been courting the dealers, the street operators.... the heavies.... who were far below the social strata of those Kim was now infiltrating. As long as he associated with the lower class, he would never be welcome within the upper ranks of Tyler's youthful society. Kim brought the perfect balance to the probe, she attacked the upper crust while Creig dealt with the "bad guys"; the down-to-earth, day-by-day operators who supplied those with ready cash.

On the night of February 2, 1979, Creig and Kim visited the apartment of Tim McGuire, a roughly hewn member of Tyler's drug community. Together, Tim and Creig had already snorted cocaine and had shared many enjoyable moments wherein McGuire had related much information about the local drug culture that Matthews would later find invaluable. For a long while, they chatted about the typical matters until, as always, the subject turned to dope. The hour had grown late, for the trio had actually met in the apartment on the night of February 1, but the time had slipped by into the predawn hours of February 2nd. During the course of the evening, Burt McCain, the son of the proprietor of Coats-McCain Lumber Company, had stopped by the apartment. Now, the four of them discussed narcotics, knowing that each member of the group used drugs to some degree. As always, the discussion turned to where there might be a good source for the beloved cocaine.

It was at this point that Creig Matthews, (Jim Myers to his unsuspecting friends) made the comment that he would later refer to as being the one where, "I ran myself into a trap on that deal."

Matthews recalled Marilyn Richards relating the source of the dope she had sold him. She had said that the patients in her wing were almost dead and didn't know if they got a pain shot or not. The thought angered him again with its recollection. But she had mentioned the office of Dr. George B. Allen at 818 Clinic Drive in Tyler. It was there, she had indicated, that the seven ounces of pharmaceutical cocaine had been kept. Seven ounces! By stepping on it a little, it could be increased to about 300 grams, having a street value of nearly \$20,000! Matthews later was to recall the incident, relating it coolly,".... I was trying to be cool and I was down in McGuire's³⁵ apartment and Burt McCain was there and a couple of

35 Tim McGuire lived in an apartment on the lower level of the Strawberry Ridge complex while Matthews had an apartment on the upper floor, thus the reference to being "down" in McGuire's apartment.

others. I told them about the cocaine and they said, 'Hell, let's go get it.' There I stood, what was I going to say? If I had said we wouldn't get it, it would have burned me as a narc, so I said let's go get it."

McGuire, McCain, and Matthews piled into Kim's car with her behind the wheel. Within minutes they had arrived at the doctor's office and pulled into the shadows of the rear portion of the building. One of the men threw a brick through one of the windows and slithered through. Soon, all were inside, plundering the medicine cabinet for the treasure promised by Marilyn Richards. Before entering the building, McCain announced that he had to urinate and Kim sat modestly behind the wheel as the young man relieved himself upon the earth at the rear of the car. Matthews crawled back outside to serve as a lookout and soon shoved his head through the broken pane to announce that a police patrol car was nearing. Quickly, the trio exited the building, entered the vehicle and spun from the parking lot behind Dr. Allen's office. Officers within the squad car saw the fleeing vehicle and surmised that its sudden departure was more than suspicious and flicked on the red lights and briefly sounded their siren. The suspicious car obediently pulled to the side of the street.

The officer routinely ran a check on the license number of the vehicle: QKM 798, and found it to be registered to Kim Ramsey at 1717 Independence Boulevard, Plano, Texas. Flashlight in hand, he approached the vehicle and asked for the young woman's driver's license. For a long moment, Kim held her breath, not wanting the name on the license to be repeated within ear-shot of McGuire and McCain.

"What were y'all doing behind that building?" asked the officer.

Kim pretended to be embarrassed. "You want the truth?" she asked timidly.

"That would be a good idea," replied the cop.

"One of the guys had to go to the bathroom. It was the nearest place we could find out of sight. Everyplace that has a bathroom around here is closed, so we didn't have much choice."

The officer smiled. The explanation was blatant enough to be believable and he issued a mild warning about doing things that appeared so suspicious and released the driver and the auto.

One must applaud the officer for what was done next, however. Having dismissed the suspects, he demonstrated enough professionalism to

return to the parking area behind Dr. Allen's office and give a quick search of the scene. Within minutes, he was calling the dispatcher asking that the vehicle be apprehended and that an investigation vehicle be sent to the scene. Approximately 20 feet north of the point of entry into the building, investigators discovered footprints with a tread-like mark that was later to match shoes worn by Creig Matthews. Within minutes, the dispatcher reported that the suspect's vehicle had been apprehended and that the occupants of the car were under interrogation. Kim Ramsey was later to chuckle, "I had glass in my shoes and there was a gun under the front seat, and they didn't even arrest us!"

Mysteriously, even though the investigating officers were unaware that Matthews was a narc operating under the auspices of their department, all the suspects were released. The investigation report was marked SUSPENDED and a later notation, dated May 7, 1979, revealed that the matter had been CLOSED. "Suspects in the case has (sic) been arrested on other offenses. Due to this reason, this case will be cleared and closed, authority of Captain Bond."

While Dr. Allen suffered no losses in the break-in, he was faced nonetheless with extensive cleanup and repairs to the window. As would any citizen victimized by crime, he called the police department on two occasions asking what was happening in the investigation.

"I was told that a police officer was cruising around in this area where there's a lot of doctor's offices. He saw a car whip away from behind my office, and he sped up and intercepted them.

"They told me they arrested one man, a girl, and a boy. They apparently told the officer that they had stopped behind my office to use the bathroom.

"There was nothing missing because I don't keep any narcotics here anymore, but there's little doubt whoever it was was looking for narcotics."

Five years later, Dr. George Allen was to recall the incident and his contacts with the police department in an interview with the author. He could only shake his head with the full knowledge of what really took place. "It doesn't build one's confidence in the police department, does it?" he lamented.

Now, the charges of "coverup" once levied by Judge Phillips against

Sheriff J.B. Smith were duplicated in a framework of reality. The Tyler Police Department had openly conspired to coverup the break-in and had known the culprits, having apprehended them shortly after the crime. The fact that one of them was an active narc on assignment seems to have been sufficient grounds for concealing the crime and not pursuing its penalties.

Smith County District Attorney, Hunter Brush, was to excuse the coverup with typical political rhetoric. "At face value, it does look fishy, but taken in the full context, there are other matters to consider."

Interesting. The guardian of the people's law now summarizing a felony by deeming it as being subject to other matters that would have to be considered. Suddenly, at the convenience of the police department, the District Attorney found it plausible to excuse such actions. Even though the case never reached his office for prosecution, the D.A. found it reasonable to sidestep the content of the law because of the status of those who broke it. Yes, the Justice of Smith County runs deep within the veins of its officials.

If the bizarre occurrences of February 2nd had any result, it was that it was an event leading Tim McGuire to be even more suspicious of his new friends. He had been around long enough to know that the treatment afforded by the police on that night was not typical to what he had experienced in the past. There had to be some reason why Matthews and his girlfriend had been released from custody. That reason could only be one thing.

Within days following the event, two surprising events took place. Kim Ramsey was officially hired by Willie Hardy as a member of the Tyler Police force, in spite of the fact that she had royally screwed up in the burglary of Dr. Allen's office while being no more than a private citizen. Now, she was on the payroll, and the wheeling and dealing of the narc duo could reach new heights. The second event occurred again in Tim McGuire's apartment when he looked up from lighting a joint to calmly state, "Jim, know what? I think you're a narc."

Matthews stared at his friend for a moment before a slight smile crossed his lips. He was bigger than McGuire, stronger and more attuned to violence. "Let's get in the car," he commanded, and McGuire meekly obeyed.

Matthews drove Tim McGuire to the Tyler Police Department where he had Chief Hardy summoned from his home. Upon his arrival, Hardy witnessed Matthews sitting in the corner of his office with Tim McGuire seated directly on the other side of the desk.

"What do we have?" asked Hardy.

Matthews shrugged slightly. "He's made me," he announced.

"Is that true?" asked the chief of McGuire.

"Yeah, he's a narc," said McGuire.

Hardy nodded slowly, glancing in Matthews' direction. "That doesn't leave much to do, does it?" he asked.

"Not much."

The Chief nodded his agreement, staring into the widened eyes of Tim McGuire. "There's two things you've got to remember, McGuire. First of all, we've got you made. Second, we can't have you walking around out there spilling your guts about a narc operating in Tyler. So, I'll tell you what I'm going to do."

McGuire swallowed hard, muttering, "yessir."

"First of all, I'm going to have you sent up for twenty-five years and I'm going to see to it that you spend the first ten of that in solitary confinement. How does that grab you?"

"Hey, man," began McGuire nervously, "I'm not going to say anything about all of this. I planned on moving away from here anyway. There ain't no need to be doing something like that to me?"

"Chief," interrupted Matthews, almost on cue. "Tim here has a lot of information. He knows everyone who's using and who's dealing. I think there might be another route to take if I can talk you into it."

Hardy pursed his lips, playing the "good guy - bad guy" game to its limits. "It might be a good idea if it was anyone else," he told Matthews, "but McGuire here isn't gonna' help us in any way."

McGuire spoke eagerly. "I'd help you!" he declared. "You want me to work with you, Jim? You know me, you're damned right I'd help you!" "You'd be willing to be a snitch and put me on the inside with everyone you know?"

"Hell, yes!"

"And keep your mouth shut?"

"Yeah! You know I would!"

Matthews raised his eyebrows with a sigh. "Whadya' think, Chief?" Hardy leaned across the desk. "You might get yourself a buy this time, McGuire," he began, "only because my man here is willing to put some trust in you. Personally, I wouldn't trust you any more than I would a field of dog turds. But I want you to know that I'm making you a promise. If you spill your guts at any point, I'm gonna' double the time in the joint, you got that? I'll send you so far away, it'll take a dollar to send a dime postcard!"

McGuire nodded and cast a nervous glance toward Matthews. The process was now complete. In police jargon, McGuire had been "flipped," he was now an informer.

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The passing of the weeks now produced a growing list of names provided by McGuire of those using narcotics throughout the area. If a case had not been made on any of those upon the list, McGuire would gladly invite them to his apartment and sell cocaine to them in the presence of Creig Matthews, sealing the ingredients needed for a good case to present to the grand jury. It was all working well, and Creig was happy with himself.

By night, he could now gather Kim into his arms and feel a certain fulfillment to his life. There was pressure upon them.... a great deal of pressure.... so their moments together were reprieves from all beyond the walls of their sanctuary and they could whisper of things shared only by lovers. They would love then, and look upon tomorrow as a domain belonging to another time in quite another place.

"I have to see Hardy tomorrow," she sighed, lighting a cigarette in the minutes after their passion.

"What for?" he asked softly.

"Hell, I don't know. You're supposed to be there, too."

"He didn't say what for?"

"No."

"Damn."

She smiled in the darkness. "It'll be all right," she assured him. "He's such an ass."

"Yeah," he said in long, drawling tones. "Right now, I'm going to get some dream insurance. I've got a baggie in the drawer, get it for me, will you?"

They shared the powder then, snuggling comfortably down beside one another, feeling the impact of their stimulation. There would be no sleep immediately. But after that, they would dream of better times in a better place.

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"My husband always thought that Willie Hardy was too weak to ever become a good Chief of Police."

Carolyn Malloch

WILLIE AND THE BOYS

Willie Hardy was in good spirits when Kim and Creig arrived at the department and entered through the private door leading directly into the chief's office. He greeted them warmly and offered them coffee. His questions reflected a concern for their comfort in their roles and the quality of their lifestyles. It appeared that he was genuinely interested in their welfare, and each comment was punctuated by a broad smile appearing below his thin mustache.

"How are we coming on the big case?" he inquired abruptly. Matthews knew he was referring to Bora, and he shook his head slowly, tilting it with resignation. "Not very good at all," he confessed.

"Well, it'll come. With the numbers you're now making, the Bora thing will fall into line."

"I hope so," admitted Matthews. "With McGuire getting wise, I'm a little edgy now about the whole thing."

"You think McGuire's talking?" asked Hardy.

"No, it's not that. It's just that if McGuire can figure things out, maybe someone else can, too. I'd just like to put Bora to bed and move on as soon as we can."

Hardy nodded. "I can understand that. That's what I told you in the beginning. Make Bora and you can bust out.³⁶ But I've been thinking about something lately." Hardy broadened his smile. "I think it's something that'll grab both of you."

36 "Busting out" is police jargon for the point where an investigation can be considered complete and the narcs can be released from the assignment.

Kim flicked a glance in Creig's direction and returned Hardy's smile obediently.

"In looking over the list of the folks you've made so far, it sure as hell appears that we have the makings of one helluva drug bust here. Nearly twenty folks made already. That's no small number. But I think there's a lot more. I think this can be made into something even bigger than the Joe D. Hicks deal.³⁷ I think you both can step into the limelight and take the department right along with you. All we have to do is nail Bora." Matthews chuckled. "That's not easy."

"Hell, no, it's not easy. But it'll have to be done. What I see here is at least fifty folks in a major drug bust and Bora. With that many, I think you could bust out and feel comfortable about things and there wouldn't be a department in the state who wouldn't be knocking down your door to get you to work for them."

Kim gasped openly. "Fifty people?"

"Why not?" asked Hardy. "We all know there's fifty folks out there wheeling and dealing in dope. You've got almost twenty of them already. Fifty's a good number."

"Fifty's a high number," retorted Kim.

"No," argued Hardy, "it'll come easy. Fifty it is. Fifty folks and Bora. That's the numbers."

Matthews opened his mouth in amazement. "How in the hell...." "Wait a minute," smiled Hardy. "I'm going to make this whole business a lot easier for you. Here's some of the folks we want. Some of them you've already made, but here's the names we want when the bust comes down." He handed a paper to Matthews who moved closer to Kim for her to review its contents.

"Royce Wisenbaker, Jr.?" said Matthews. "I've never even heard of him. Barry Austin Smith.... Henry L. Fuller, Jr....."

"He's known better as Toby Fuller," offered Hardy. "Paul Woodward.... Breck Watson...."

Matthews was later to relate that Hardy then held up his hand in a gesture to halt the recitation. "Look," he reportedly began, "you two have

37 Creig Matthews had played a pivotal role in convicting Joe D. Hicks, the mastermind of a multi-million dollar international drug smuggling ring while working in the Dallas, Texas area attached to the Drug Enforcement Agency task force.

been around long enough to know how things operate. We could waste all kinds of time trying to stumble across someone who's dirty. These folks here are dirty and all you have to do is catch them at it. At the same time, we'll clean up some old dirty laundry around here. Collect on some old debts. The Smith boy there, he's been a sore point around here for a long time. Gives our patrol boys a bad time squealing around in that little sports car of his, then he calls in high-powered Dallas attorneys to beat the tickets. He's got a brutality suit against us now. The same with the Woodward kid. That's an old score. Malloch had me apologize to Woodward's parents one time for something that was as clean as the Pope's robe. It's payment time, y'know? I don't believe in getting even, I want to come out ahead. And they're all dirty anyway. It isn't like we were bad-rapping them. They're all as dirty as hell. McGuire should know something about them. Check it out with him."

The Chief cautiously removed the list from Matthews' hand, informing him that he should remember the names. They would be priorities. Targets.

"So, that's it, folks," mused Hardy. "Fifty folks and Bora. That's the goal."

Matthews smiled with confusion. "Chief, do you know what we would have to do to get fifty people out there? We couldn't find that many dealers in a year of Sundays. We'd have to dip down into the users."

"Then dip," said Hardy coldly. "Fifty. That's the number. Fifty and Bora. Bora stays number one."

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It had been a good year for the Point 21 and Anothre Place. By the time Kenneth Bora received the accountant's report of his earnings, he recognized that he was earning more money than he had ever obtained in his life. He had purchased a home in the exclusive area of Hide-A-Way Lake where mansions sprawl against the horizon. His home was more modest, but its address was nonetheless impressive. He had negotiated for and finally purchased a ranch in nearby Palestine and had sent for his parents to move from Ohio to enjoy his new fortune, an act in keeping

with his traditional European roots where family ties were never severed, but remained as the endearing force of unity. Four new, or nearly new, vehicles rested in the driveway, all registered in his name. He had arranged to gain control of the vending machines within the clubs, and found these to be another bountiful source of income. Crowds within the clubs seemed to grow nightly, and often there was not room enough to dance, only to move in slight gyrations to the music that was always too loud, but in keeping with the youthful tastes.

In the attic of his home, he had stored away much of the relics of his past. Bora was a packrat. He never discarded anything. Everything would eventually have value, and again, the old ways were deep within his genes. There was always a waste to disposing of anything, and he kept such reminiscences as the old reel of film upon which he had spun the spliced portions of porno films in the days when he wanted to be certain they would pass police scrutiny.

In Tyler, he had found the best of everything. He had remarried now. A quiet woman of southern charm, holding dear to the principles wherein a southern woman accepted her husband's generosity with gratitude but never inquired into the nature of his business, for that was a social encroachment of no small proportions. Ken was happy with her, but was always subject to his weaknesses and her passive approach to their marriage was such that she never questioned his activities. On some days within the club, he would take as many as six different young girls to bed and then arrive home to receive the welcoming embrace of his wife.

"My main crime in Tyler," he was later to reflect, "was that I was a lousy husband." He was enjoying that characteristic of Smith County bred from its heritage of a country-western morality. Tyler boasted of two synagogues and 150 congregations distributed within 39 denominations, but Bora was to observe, "There was never a question if any woman would go to bed in Tyler, it was just the question of how good she'd be when she got there." In many encounters, the woman would pull off her rings and lay them on a motel nightstand before entering the covers beside Bora.

The money had come so easily, Bora found it difficult to recall the days when he slept in the old Thunderbird and ate oranges three times a day in California. Now, he had hidden \$40,000 in cash in a binoculars case in his attic, for no particular reason. "I just wanted to have it there,"

he was later to recount.

As if wealth wasn't enough, he was receiving signals that he was being accepted as a staunch member of the community. Chief of Police Willie Hardy would call him regularly and they would share lunch at the Hot Biscuit Restaurant near Loop 323 with Bora always picking up the check. "He just called me because he knew he'd get a free lunch." Things were going smoothly at the clubs and he had recently promoted one energetic employee from the ranks of a bar back to cashier. A man named Jim Myers.

It was almost a sultan's life. He would sit in his office within the club and review the paperwork accompanying the enterprise, occasionally pressing the intercom button on his phone and ordering another drink to be brought to him. Within minutes, an attractive girl would enter, bearing his drink and smile with her question of if there would be anything else Bora would like. If there had been anything, he was reasonably sure he could have gotten it.

Ironically, during the time that Jim Myers (Creig Matthews) was working at the Point 21 Club and attempting to make a case on his employer, there was a night when Bora was informed that there was cocaine being used at a table within the club. With his typical self-reliance, he approached the table, gathered up the visible narcotics, and informed the patrons that there wouldn't be any activity of that sort on his premises. Dutifully, he took the substance to his office and called the police, informing them of the entire event. "Look, Ken," said the officer, "flush the stuff down the shitter, huh? Get the folks out of your place and let everyone go about their business." Bora did as was suggested, but wondered of the quality of law enforcement in Tyler. Unknowingly, he had flushed a sizable amount of redeemable coke down the commode. Unfortunately, Matthews was not witness to the event, or perhaps his suspicions of Hardy's adamant posture might have been strengthened.

In spite of Bora's doubts about the quality of the local police, a portion of his routine included the luncheon engagements with Hardy. Bora was later to recall, "He'd always get around to asking about the clubs and how much money was coming in. He somehow always turned the conversation to that topic."

It was during one such meeting that Bora was later to charge that

Hardy finally got down to his intended business. Bora related the conversation as Hardy stating, "Ken, it's gonna' take about \$1,500 a month for you to stay in business."

Bora leaned back in astonishment. He had been shaken down before, but had not expected it in provincial Tyler. "I can't do that, Chief," he replied. "I don't do business that way."

Hardy had smiled with his easy expression of defiance. "Ken, I'm the law. I say whether or not you stay in business."

The old, stubborn flare of Bora's temperament began to ignite. He raged inside, but knew that he should remain composed, as easy with the subject as Hardy was appearing. "I'm sorry, Chief. I can't do that," he replied.

Hardy nodded then, muttering something about remembering that he had made his own bed and would have to lie in it. Bora accepted that, knowing that in that moment he had acquired a new and significant enemy. He nodded with his acceptance of Hardy's prediction, and drank from his cup of coffee silently.

As if the topic had never emerged, Hardy spoke of other matters. Light conversation filled with a sense of congeniality that Bora found confusing. It was beyond his comprehension that someone could stray from a topic of such devastating dimensions and quickly revert to nothing more than small talk. He responded to the discussion clumsily, attempting all the while to understand the man before him, but knowing that he never could.

Just as the trivial conversation had confused Bora, so did the continuance of Hardy's calls, suggesting that they again have lunch. Now, the meetings were casual, almost social in nature. With each encounter, Bora nervously awaited for Hardy to reintroduce the subject of the monthly payoff, but the topic was never again discussed. Certainly, there had to be some reason why the Chief wanted to meet for lunch with such regularity, he reasoned, but the motive was never to be clear to him. Perhaps this was but a segment of the small town character of Tyler, he thought, but he knew that couldn't be true. A shake-down was a shake-down, regardless of the size of the city. In this instance, he had refused the demand for monthly payoffs, and in so doing, he felt uncomfortable, as if always waiting for some retribution. He wondered if the entire system of Tyler could

be so corrupt, or was it just the greed of the administrator of the local police? He wondered, but resolved that it had nothing to do with him in the long run, after all, for he was obeying the laws and trying to do what was right. That was all anyone could expect of him.

Still, the experience troubled Bora. It was a strange uneasiness bred of the comments of the chief. In refusing, he was making his bed and perhaps his apprehension was a reflection of "having to lie in it." Yet, with the passing of time, he came to reason that such shake-downs were part of the integral nature of East Texas. Newspaper accounts were filled with indictments of County Commissioners throughout the area who had taken bribes in return for purchasing road equipment from select companies. Lawmen from surrounding counties were regularly in the news for a wide assortment of charges. Private businesses were being indicted for offering bribes to more honest commissioners who reported them to authorities. Over-the-bar conversations at the club revealed rumors of preferences provided to the area's more prominent citizens who could evade arrest for minor charges simply by being who they were. An ancient rumor about town dealt with the tale of a judge's son who was once apprehended with the goods from a reported 22 burglaries and was later a prime suspect in a local murder, but escaped all penalties simply by his kinship to his father in black robes behind the bench. Yes, that must be it, he thought. The shake-down attempt must just be typical of the region. With the rationalization, he found it easier to deal with the event and to finally dismiss it from his mind.

Throughout the early days of 1979, there were indications within the department that the system was going to hell in a hurry. Mike Lusk was among the first to recognize that something was terribly wrong with the operation of the agency when he encountered some rather strange attitudes from his superior about matters he considered to be of the utmost importance. Among Lusk's duties was that of compiling a weekly worksheet that was a portion of the department's accounting system. The sheet would detail the expenditures from the vice division, primarily related to funds utilized in the drug investigation and monies distributed

to Creig Matthews. With his adding machine, he again ran the tape from the vouchers stacked neatly before him and shook his head when viewing the printed total, cradling his brow and moaning softly. There was a shortage of several hundred dollars. To be certain, he ran the tape again, watching each entry be detailed by the machine to insure that he was not repeating some basic error. The total clattered before him and he groaned again, realizing that the shortage was indeed real, not the product of his weariness or poor coordination. There was only one thing left to do. He would have to report it to Chief Hardy.

Politely knocking at the chiefs office door, he heard the call to enter and mustered his courage under a deep frown to admit, "Chief, I've got a problem. I'm short on my report and I can't find it."

Hardy raised his brows, looking into Lusk's eyes. "How much?" "A bunch."

Hardy nodded slowly. "Keep looking, Mike," he advised. "I'm sure you'll find it."

Sergeant Lusk shook his head. "I've ran the tape five times, Chief, and it just isn't there. I can't find where it went, but it just isn't there."

Hardy smiled. "Try it again, Mike. I'm sure it'll show up."

Obediently, Lusk returned to the division office and poised himself before the machine, determined to give total concentration to the touching of each key. Slowly, painfully, he repeated the tape with an exacting determination. With a sigh and an upward glance, he pushed the total button. The final figure was the same. The money was still missing. No matter how much confidence Hardy may have had in his ability to discover the missing funds, the tape did not lie. He would have to return to Hardy's office and admit that he had failed.

"Mike, just keep figuring," advised Hardy. "Making out these reports is an art. If you really work at it, I'm sure you can make everything balance, right?"

After a long moment of silence, Lusk nodded, for he finally understood. For an hour after returning to his office, he adjusted and exchanged figures until the report balanced. It was a fraud, he knew, but the final line balanced. His sense of right and wrong told him that there had to be a better way, and he spent a few minutes exploring the floor beneath his desk and the cavity of the wastepaper basket. Perhaps a

voucher had fallen somewhere. He prayed that it could be found. Anything that would make it unnecessary to falsify the report. The search was fruitless. The fraudulent report would have to be submitted, regardless of the message from his conscience. Slowly, with a forced determination, he entered Hardy's office again and deposited the report on the desk. He watched as Hardy gave it a cursory examination before scribbling his name on the line marked "Authorization."

"I knew you could do it, Mike," Hardy offered. Lusk nodded slowly before muttering, "Yessir."

"This is the worst part of this business," Hardy continued, handing the report back to Lusk for delivery to the proper clerk. "The whole money business has to be the worst part. I hate it, how about you?"

Lusk counterfeited a smile. "It's not fun, no, sir."

"You should be the one who has to answer for it all," mused Hardy. "That's when it really gets to be a bitch."

For a fleeting moment, Lusk felt that he had acquired a partner in the fraud, a co-conspirator, and his fear subsided. Hardy seemed to be in good spirits and at ease. He felt it might be the right time to ask the question that had been haunting him.

"Can I ask something that's probably none of my business?" he inquired.

Hardy tightened his lips, shrugging. "Maybe."

"Well, it's been bugging me. I remember the old days in vice when we had to pull teeth to get fifty dollars for a buy. Sometimes we'd get as little as twenty-five, thirty. But now, Creig seems to be able to get pretty much what he wants. Four hundred, five hundred, seven hundred at a whack. Where's all this money coming from?"

Hardy broadened his smile and sighed. "Well, Mike, let me put it this way. We have a City Manager who's a genius at juggling money around. He can slide it from one account to another smoother than anyone you ever saw. He would have made one helluva narc."

The silence returned then. Lusk found it difficult to believe that the nature of the vice operation had changed so drastically in such a short period of time, but conceded that perhaps Hardy was telling the truth. The City Manager, Ed Wagoner, was a slick character, that he knew. He was also aware that there were frequent, long visits between Wagoner and

the chief. The extent of their rapport was unknown to him, but he could readily understand that perhaps agreements existed within their relationship that would have provided the vast funding now represented within the vouchers upon his desk.

"I had to wonder," he confessed meekly. "There's a lot of rumors about the money being used."

Hardy laughed. "There's always rumors, Mike. You can't let the rumors become important to you."

A collection of locker room rumors floated quickly through Lusk's mind and he finally reasoned that the chief was indeed right. He couldn't let them influence him. For the moment, he would place his belief in Hardy's explanation. That was the safest thing to do. Lusk knew when he had a good thing going. He had received his evaluation report from Hardy only days before revealing that he had been ranked "superior" in all areas of his performance within the vice division.

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It was spring and the tempo of Matthews' life was accelerating at such a pace, it was difficult to identify the days, to separate time into specific segments. Everything was moving so quickly now that he sometimes wondered if its progression wasn't somehow associated with the ill effects of the overdose. Doctors had declared him stable and capable of working, but he still suffered occasional flashbacks in times of stress and found himself daydreaming to the point that he could call them no less than hallucinations. Somehow, however, he did function and found each day now filled with a new contact, new evidence leading to the facts formulating a new case. As the contacts increased, so did Matthews' exposure to narcotics. In every detail of his daily operation, Matthews was now crossing what the narcs called "the fine line." He was using and he was entrapping those victims that the narc school always called "potential defendants."

In reality, entrapment is one of the finely honed tools of every narc. It consists basically of causing a person to cross that "fine line" and commit a crime that he would not have otherwise committed. Within the courts, however, the burden of proof in entrapment charges rests with the citizen.

He must prove to a jury that he was not "predisposed" to commit the offense. Texas' popular writer, Gary Cartwright once penned, ". . . .DPS agent-in-charge Elmer Terrell reminds every narc class, if a potential defendant in a drug case cannot prove entrapment or discredit the officer's testimony, then he will be convicted."³⁸

Strangely, the definition of entrapment is more liberal within the classrooms of the DPS narc's school than it is in the minds of Smith County attorneys. Terrell once identified entrapment by stating the example, "I can't place the thought of an illegal act in your mind."

When asked, "You mean, if you come up to me and say, 'Boy, I sure would like to have some dope' and I give you some. . . ."

Terrell was quick to reply, "Then that's entrapment."

With that definition, it was apparent that Matthews utilized the intricacies of entrapment expertly. He typically initiated the queries about narcotic sources and openly solicited drugs from future defendants. Yet, the method was not unique to Matthews alone. Austin attorney Sam Houston Clinton once stated, "The problem with professional undercover agents is that they are very good at stretching the truth to suit what the court and the jury want to hear. They claim never to use drugs, only to simulate the act. They claim that they never solicit drugs; they are always asked. Now that's so contrary to human experience that you can't help but believe that many of them are trained liars. The judge and jury tend to accept the officer's word for what went on. At the trial, the narc looks like any plainclothes detective. Shaved groomed highway patrol hair cut. All the while the DA is telling the jury; this man is out there in the slime and filth, risking his life for you and your children. Unless the defense can catch a narc in an outright and very obvious lie, he's gonna come out looking like a hero."

If Matthews was violating the law in his activities, then it is also apparent that equal violations were transacted by his superiors. Among these was the treatment of Tim McGuire after he had been influenced to become an informant for the police department. The fact is evident: McGuire was never charged with a narcotics violation even though, as revealed in an affidavit later filed by Tyler attorney Buck Files: "Although

38 Cops As Junkies," Gary Cartwright, Texas Monthly.

Tim McGuire is alleged to have participated in a number of narcotics transactions, no charges have ever been brought against him." The absence of such charges constitutes immunity. Under Texas state law, no law enforcement agency has the power to grant immunity.

Elmer Terrell dealt with the question of immunity by admitting that law enforcement does not have the right to grant immunity, but claimed that immunity was always arranged through the DA's office and the court. "Ninety percent of the time it's the defense attorney who approaches us," said Terrell.

Defense attorneys, however, could only laugh at Terrell's observation. Texas Monthly candidly outlined how immunity is commonly gained by informants. "Four years ago, near Memorial Stadium in Austin, two DPS narcs stopped a university student for a minor traffic violation, searched his car and found two diet pills. They also accused him of driving a stolen car, although he quickly proved that he had borrowed the car from his mother." An attorney familiar with the case observed, "Now possession of two diet pills is a very marginal case, as any experienced officer knows. But they threw the fear of God into this kid. When they felt that they had him, they offered this deal: he could work it off by turning in five people. It wasn't enough just to turn them in, five cases had to be made, cases they could take to court, with a reasonable assurance of conviction. The kid came to me and said he just couldn't do it. We sued the DPS for violation of his rights, and in the course of trial both agents involved.... as well as their supervisor. ... admitted, in writing, that this was the standard practice for recruiting informers."

The expense of violations by narcs was candidly revealed in a case tried by Sam Houston Clinton. During his examination, Clinton asked a narc how they gained entrance into a home they had raided.

"With a master key," answered the narc. "And where did you get this master key?" "We always carry it with us," admitted the narc. "And could you describe the key to the jury?" "Yes, sir. It was a 16-pound sledge hammer."

It is apparent by such examples that the scope of authority granted to narcs is astounding, and what the multi-leveled governments and citizens alike are willing to condone is even more alarming. The methods proven

successful by narcs is transmitted through the telegraph of their underworld communications and often they discover new avenues by which to establish their cases and new violations that will only demonstrate their disregard for common law. If Creig Matthews was later to criticize the screening methods of the Tyler Police Department in his hiring process, then it should be revealed that such pre-employment investigations are not at all rare within Texas law enforcement. Fortunately, there emerges, from time to time, a lawman of adequate courage and belief in the system to correct such wrongs. One such lawman was Travis County Sheriff, Raymond Frank.

A report of Frank's action revealed, the sheriff learned one morning that a narc who was at that moment upstairs in 53rd District Court testifying against 16 drug defendants was in fact a Navy deserter. The sheriff asked the narc to step out of the courtroom, slapped him in handcuffs, and escorted him to jail. Needless to say, both the University of Texas security police who had hired the narc (the busts took place at Jester Center on the UT campus) and the Travis County DA were outraged. With their star witness in jail, their cases against the Jester 16 were worth little or nothing. Assistant DA Herman Gotcher even hinted that the sheriff might be taking his orders from the Mafia."

Sheriff Frank defended his action ably by observing, "I talked to Duane Osborne³⁹ when he was up here. Some of the stories he told make Texas sound like the Soviet Union or Nazi Germany. And the really troubling part, there is no public outcry. People just seem to accept it."

Frank's complaint was as common to Smith County as it was to the remainder of the state. Creig Matthews felt confident in his role of a narc actively entrapping people on a daily basis, for his experience had told him that he was, by his role, insulated from accusation and protected by apathy. He could incorporate any trick of the trade he wished and feel assured that there would be no repercussions. And if there were complaints, he was confident that no Smith County jury would equate the word of a junkie to his. After all, the chief of the Bureau of Narcotics and Dangerous Drugs categorized junkies as "vermin." The image of both the

39 Duane Osborne was a DPS narc, turned addict, who was convicted of armed robberies associated with the pressures of his assignments and his addiction.

narc and the defendant had long been planted in the public mind, and Matthews could operate freely, knowing that he would have public opinion on his side. The nature of the mind-bending influence of government upon the common citizen reached its apex when President Nixon established the federal Drug Hotline where citizens could turn in their friends and neighbors, toll free. In the public's mind, there was no such thing as a recreational user, an occasional experimenter, or a social fix. Anyone snorting coke, dropping an illicit pill, or dropping a "beanie" to stay awake on a long drive, could be easily identified as the "vermin" of America's drug culture.

In spite of this long-term education of the public, there remains those within law enforcement who believe that marijuana is not a dangerous drug. Those (like myself) who have never experienced the affects of pot have difficulty determining the validity of such a claim, but one must consider the opinions of those like Sheriff Raymond Frank. "As far as marijuana goes, it's certainly no more dangerous than alcohol. They make this point at the DPS Breathalyzer School.... that if gin were invented today, if it were a brand new product, just on the market, you would need a prescription to buy it. It's dangerous. The time will come, I feel sure, when marijuana will be accepted as alcohol is now."

Within this realm of conflicting philosophies, narcs, like Creig Matthews, were expected to operate within the framework of the law. The simple truth is that it cannot be done. Kim Ramsey was later to recount the experiences she endured with Matthews, "Someone would knock on the door at 9 a.m. with some cocaine, so I'd sniff a little. Then someone would come by at 10:30 with Quaaludes. After lunch, someone would come by with some speed, so I'd snort that. We were up, down and sideways on that stuff. It's not hard to get hooked that way. But who would sell drugs to someone who did not use them in front of you?"

The question is not at all invalid. It may rankle our social spirit and disturb our concept of right and wrong, but given the position of the narc, the statement bears an element of truth. If one is mentally liberal enough to envision themselves as a dope dealer, knowing the ever-present danger of a narc being present, would you not want to witness the buyer using your product? And in so witnessing, would you not then be confident that you were not dealing with a narc? It is this very logic that the narcs utilize

in their operations, knowing that the prime weakness of the typical American is his sense of justice and of fair play.

It did not take long, therefore, for Kim Ramsey to realize that her narc partner was beginning to have a serious problem with his drug usage. It came to her in a pensive moment when she sat on the sofa of his apartment, staring at an empty syringe lying on the kitchen table and hearing Creig snore in his somnabalistic trance. She could not help but wonder at what bizarre courses their lives were taking. This was the man who, in those ancient days in Plano, had once proposed to her. He was the man she had loved. Now, she was witness to the encroaching addiction that was already leaving its signals upon him. Creig had lost weight. His appetite was absent, supplanted by his longings for drugs. His habit was devouring him before her eyes and she was doing nothing about it. She had cowered when he violently denied the problem. She had felt that she was being dutiful in accepting his denials, knowing all the while that it was but an illusion.... a fantasy proclaiming that with the morning, all would be well again. There had been many mornings, and Creig's problem was only growing with each new day. In her moment of truthfulness, she was forced to admit that she, too, had physical demands for drugs. Yet, within the strange distortions of her rationale, she could reason that Creig shot his with the syringe while she only sniffed hers. Where the distinction led her was something unknown to her, but somehow satisfying. It elevated her habit above his within her mind, making her responsible for his mounting problem.

Kim knew that as narcs go, Creig was a good one. She had seen him in operation and knew that he was cool, level-headed, and quick witted. She had learned much about his activities that took place prior to her arrival in Tyler. As an operative, he was in a separate class from most. She had heard the observation of Creig, "To a new customer sitting at the bar (Point 21) the affable Meyers could have appeared to be the owner, washing bar glasses and hauling liquor just because the rest of the employees were swamped with business." She had heard tales of how he would take a \$100 bill from his pocket, crease it lengthwise and pour coke into the crease that junkies refer to as "the rail." He would then snort coke in full view, just to give the act a new, dramatic flair. She could look around his apartment and recognize the care he had given in establishing an

atmosphere of an affluent user always ready for a new source. The \$210-a month, one bedroom apartment was tastefully arranged with a beige crushed velvet sofa where an antique trunk was placed as a coffee table. Beside the stereo was the large collection of Creig's records, always ready to establish the proper mood. In the parking lot, there was always a new car, a Camaro, a burgundy Monte Carlo. Yes, he had laid the foundation of his image with a true expertise, and she could smile with the thought of him doing so, viewing each adornment as a potential trap for some unsuspecting dealer.

Perhaps it would have been different if they could have shared the same apartment on a full-time basis. That had been their original plan, but Hardy had made the stipulation when hiring her that she would have to have her own address, that they were not to live together. Even so, there had been those nights when she had not returned to her apartment, also at Strawberry Ridge. She folded her legs beneath her and smiled with the memory. She had planned to go back to her apartment that night when the sudden impulse took root. She returned her purse to the kitchen table, undressed, and climbed into bed beside him.

"Willie wouldn't like this," he mused softly. "Screw Willie," she whispered.

Matthews had chuckled. "Willie'd probably like that."

Now, she gazed upon him. His slender body prone upon the sofa. Creig Matthews, the man who was Jim Meyers to everyone else they knew in Tyler. Jim Meyers, yes. Jim Meyers who would buy any thing Preludin, cocaine, Quaaludes, methamphetamine,

marijuana, heroin and always have the ready cash to do so. Jim Meyers, the high-rolling big-spending guy always ready with a laugh, a joke, a pinch of a young fanny, and sharing of his stash of dope. It was all so easy. All that had to be done was to call Mike Lusk and inform him that cash was needed for another buy. It was easy to sign the voucher. It was easy to fold the bills, stuffing them into a pocket. It was easy to play the role of the likable guy with bottomless resources. It was all easy.... too easy. Jim Meyers was the schizoid fabrication designed by the nature of Creig Matthews' work. Now, the illusion was becoming the reality and it was Creig Matthews who was becoming lost in the struggle for identities. Everything that Matthews was supposed to "pretend" to be, he was

becoming in reality. It was Jim Meyers lying before her on the sofa.

If the damaging effects of his addiction were not enough cause for Kim's concern, there was also the question of Creig's dependability to be considered. In the most basic human response, she considered the jeopardy she endured by his erratic behavior when under the influence of drugs. At any moment, he could blow his cover, and hers as well. Yes, that was to be considered, even though she felt guilty in doing so. Whether she liked to admit it or not, there were two reasons for something having to be done about Creig's condition. It was one thing for Creig to kill himself with his addiction, but quite another for him to get both of them killed by the affects of it. Yes, something would have to be done.

Within the society of criminals, there is believed to exist that mythical code wherein mutual protection is found by a bond stating that no one will snitch upon a fellow offender. It is, of course, an absolute myth since most cases solved by police departments are done so by defendants informing on their crime partners. Within the realm of the narcs and those operating in clandestine operations, the same code exists. Narcs do not inform on narcs. It is the old spy standard where informing is the lowest of all deeds. To resolve Creig's problem, Kim would have to violate that historic credo. She would have to inform her superiors in the Tyler Police Department that Creig Matthews was a dope addict. Still, there was no other alternative. Creig's condition was too serious to be weighed against a code that could well have been his death warrant.

Kim was later to describe Creig's condition as: "Creig Matthews was strung out on speed, he was injecting it on at least a daily basis, if not several times a day. He lost weight. His personal hygiene just disappeared. The pupils of his eyes immediately after he would shoot dope became greatly enlarged to the point that I could tell he had just finished using speed. When I would confront him with it, he'd deny it."

The following morning, Kim Ramsey went alone to the vice division office and asked Mike Lusk if she could speak to him privately. It was apparent that Sergeant Lusk was confused by the request, but closed the office door and, without speaking, sat across the desk, waiting for her to begin.

"I don't know when I ever had to do anything harder than this," she

confessed as an introduction. "I guess the best way is to come right out and say it. Creig has a problem. A drug problem."

Lusk sighed deeply and leaned back in his chair. "How bad?" he asked.

"Bad. He's really strung out."

The sergeant twisted his mouth in thought, as if wishing he had not been told. "What on?"

"Everything. Speed, mostly." "What else?"

"Liquid Demerol, coke, Quaaludes, just about anything he can get his hands on."

"Is he shooting?"

Kim nodded. She had not seen Creig snort anything in a long while. Oh, he might snort if it was to make a quick buy, but his typical usage was with the needle.

"With the people he's making?" Kim repeated her nod.

"Shit," moaned Lusk. "I'm going to have to tell Willie, you know that."

"I want you to."

"You know what that means?" Kim shrugged, her lip trembling.

"He can't wear a badge in that kind of condition. Well have to take his badge. Any case he might make in that kind of condition won't ever stand up in court."

She nodded, "I know."

"Okay," sighed Lusk again. "Go home and wait until we call you." Kim Ramsey stood, gathering her purse and muttering a soft thanks to her immediate supervisor. She was not conscious now of the click of her footsteps upon the tile of the station floor. Always before, she had noticed the sound. Now, she could only think of what she had done and wondered how she would tell Creig of her action. She pondered his reaction, his anger, and she felt her first doubts. Pushing the heavy door, she stepped into the spring sunlight and breathed deeply. It occurred to her that she was doing a foolish thing. She was leaving the station by the front door. Anyone could have noticed her. It would have been one of those

thoughtless acts that every narc was trained to avoid. Yet, her mind was elsewhere and she realized the impact of Creig's problem, even upon her own behavior. Never would she have made such a fundamental blunder before. She would have automatically left by the rear entrance, through the police department parking lot. Now, she had erred, and she realized that she had done the right thing. If Creig's addiction was having that much effect upon her that she no longer obeyed her most basic training, then it was right to have tried to correct it.

The meeting was arranged to be held at Mike Lusk's home and was described in later testimony by Kim Ramsey:⁴⁰⁴⁰

Q: Did Creig end up having a drug problem?

A: Yes, sir, he did.

Q: Did you inform Willie Hardy of this?

A: Yes, I did.

Q: How did you do it?

A: I went to Mike Lusk and told him that Creig had a drug problem, that he was strung out on speed and that something needed to be done about it. Mike called Chief Hardy and we had a meeting at his house where I told Chief Hardy the exact same thing.

Q: What did Chief Hardy say?

A: He said we can give him three days off.

Q: Was Creig there?

A: At the second part of the meeting, yes, sir.

Q: Did Creig show Chief Hardy his arms?

A: Yes, he did.

Q: Did he show him the track marks on his arms?

A: Yes, sir, he did.

Q: Did Creig have scars or did he just have puncture marks from the needle?

A: He had not only track marks but fresh puncture wounds.

Q: What did Willie Hardy say about that?

A: The same thing, he would give him a few days off.

40 United States of America vs. Willie Hardy, TY 81-43-CP, Transcript No. 6, Pg. 20-22.

Q: Did you make a recommendation?

A: I told Chief Hardy that I felt Creig needed to be pulled out of the investigation, that he was killing himself.

Q: Did Mike Lusk make a recommendation?

A: The same thing.

Q: Did Creig Matthews admit he was shooting up drugs? A: Yes, sir, he did.

Q: When you all left the house, did you see Willie Hardy and Creig having a conversation in the garage? A: Yes, sir, they walked out in front of Mike and I.

Q: Could you see if Creig showed him his arm again?

A: I couldn't see from where I was at, no, sir.

Q: How long did this entire conversation last over at Mike Lusk's house?

A: Thirty, maybe forty-five minutes.

Q: Did Creig continue to get worse?

A: Yes, sir, he did.

Q: What did Willie Hardy tell you your responsibility was going to be?

A: To try and take care of Creig.

Q: Were you employed by the Tyler Police Department at this time?

A: Not.... at the time I told Chief Hardy that Creig had a problem, yes, sir, I was.

Q: So not only were you going to be a policeman, but you had to be a babysitter too.

A: In effect, yes, sir.

The nonchalant attitude of Willie Hardy concerning Creig's drug problem reigns as one of the most mysterious within the content of the entire investigation. Hardy was, of course, to later deny any knowledge of drug usage on the part of his star narc, but to this allegation one must apply the ancient principle of "the preponderance of evidence." (1) Ramsey was to later claim that she informed Hardy of Creig's drug problem, (2) Mike Lusk was to confirm Kim's story, (3) Creig Matthews was to later admit his problem and support the story of Ramsey and Lusk that the

meeting took place and his addiction was revealed to Hardy, (4) Johnny Green, assistant manager of the Point 21 Club, was later to reveal that on one occasion he visited Matthews' apartment and found Creig "shaking real bad, perspiring when I got there." He expressed a concern about Creig's condition. "He asked me if I'd inject him and I told him if he'd sit down and stop shaking, I would." Creig was later composed enough to inject himself with Green viewing the action. "....His arm was swollen up. I told him if he came to work, he'd better wear a long-sleeved shirt. He knocked over seven trays of glasses that night and I told him to go home." (5) Cherie Paro was later to pass a polygraph examination wherein she stated that Creig and Kim "turned me on to coke at least 15 times." (6) Steve McGill, Cherie's boyfriend, revealed that Matthews would take rather large amounts of drugs and turn them over to him, instructing him to deal them on the streets and return with the money.

Most significant is the fact that Matthews himself was to confess to his addiction, even though that confession would alienate him from law enforcement and end the career he so thoroughly enjoyed. At this point, it becomes no less than incredible that Willie Hardy, the hero of the Rose Room Massacre, could not have even recognized an addict when his arm was thrust before him! It is within Hardy's right (perhaps open to question when placed in the light of legitimacy, but nonetheless his right) to deny that such a meeting took place where Matthews bared his arm and admitted his problem, but the evidence of testimony is rather overwhelming. One must reflect for a moment upon what logistics would have been required for the defendants to produce the same repetitious story of Matthews' drug usage. Young people from varying walks of life, many unfamiliar with the other, would have to have somehow met for the purpose of conspiring with a singular tale of consistent content. There could be variations to the tale, according to each defendant's personal contact with Matthews, but the thread of the story would have to remain the same. Meanwhile, Ramsey, Matthews and Lusk, who were not the best of friends in later days, would have to rekindle their union for the sole purpose of producing this one fabrication. Beyond that, one must be informed that the above is but *examples....* many, many more defendants repeated the tale of Matthews' addiction and usage. The conspiracy would have had to have been massive indeed, and for what purpose? To entrap

Hardy? Hardly. Ramsey and Matthews were the prime targets of the defendants, and they related their tales unwittingly, not knowing that they would someday lend credence to Matthews and Ramsey's allegation that Willie Hardy indeed knew of Matthews addiction.

Now, Jim Meyers (Matthews) was but a user, typical of those around him, and accepted by all as a peer. Few would suspect that he was anything more, for the innocence of the general public declares that an officer of the law would not be a user or dealer in the underworld of narcotics. Both the users and citizens of Tyler had much to learn.

The degree to which Creig and Kim had come to dislike and distrust Willie Hardy was never evident during those early days of 1979. The narc team were oddly akin to any citizen who needed to work. They wanted the job within the department and diplomatically cloaked their feelings, even when Hardy raised the required number of cases within the investigation to 100 plus Bora. The probe had started with Bora and Hillin as the targets; then Hardy had raised the ante to 50 drug cases plus Bora. Now, in that spring, Hardy had informed them that he would be even more demanding. He now wanted 100 cases and Bora before the team of Matthews and Ramsey could bust out.

"I worked a lot of undercover," Matthews was later to reflect, "but I've never been in an easier place to work than Tyler. The South Tyler people (the affluent, social group) were just of the opinion that the police did not mess with them. They were free-dealing. We had made somewhere between 30 and 35 of them when Hardy threw out the 100 figure. We didn't have Bora at that time. I discussed it with Hardy, I said we're going to have to go back and make users. The very people we put out of business, it was all for naught because we were missing the whole objective of the investigation. He still wanted numbers, for budget purposes or whatever reason. He wanted numbers. Of course, in talking about 100 people, you're talking about the biggest drug investigation in East Texas. Add Bora to it and you've got organized crime. You're adding cushion to your image."

Hardy's refusal to view Creig's drug problem seriously, coupled with the new demand for 100 cases plus Bora, brought a greater contempt for the man to the minds of Matthews and Ramsey. Still, it must be considered that Willie Hardy was the first undercover narc to operate in

Tyler, and certainly had some insights into the drug culture. It is difficult to believe that he would have made such demands without good reason. "A narc?" chuckled Matthews, "Willie Hardy a narc? He bought some match boxes of weed off some blacks and put them in the joint for it. That's all he did. And most of those were stash cases."⁴¹

Kim Ramsey snarled with the thought of Hardy. "His favorite thing to talk about was going into a club in North Tyler and he loved to unplug the juke box and kick it across the floor. That was real police work!"

Matthews nodded with Kim's observation. "He hassled the blacks. The Rose Room Massacre, that's what he called it, The Rose Room Massacre⁴² I'll tell you what that idiot did. He came in one day and said, 'I've got this black informant and he's a good dude. I want you to go with him and make some heroin cases off some blacks.' He said we hadn't made that many blacks. So we meet this guy and we go over to the Savoy Club.⁴³ We were there about 20 minutes and the blacks were walking by looking at us and making us for The Man. This dude had never been a snitch for Hardy. He had never made a case for him. He just walked in and said, 'Hey, I want to snitch for you.' This was during the investigation, and that idiot wanted us to work with him!"

Kim: "We got ripped off for \$240 that Saturday afternoon."

Creig: "Every black in North Tyler made us."

Kim: "It was narcs-on-display day."

Creig: "I called the snitch up because we got ripped off and I said, 'Hey, snitch, I'm going to kill you if I don't get the money back.' He called Hardy and he said leave him alone."

It didn't matter how much Kim Ramsey disliked or distrusted the Chief, however, he was the final and only source she had to issuing her complaints or warnings. When Creig continued in his old way, increasing the magnitude of his addiction, she was faced with the realization that Lusk was helpless; that the Assistant Chief, Kenneth Findley, was Hardy's yes-man and puppet; and that only Willie Hardy could truly rescue Creig

41 A stash case is planting narcotics on a suspect and then charging him with possession or an attempt to deliver.

42 The Rose Room was a club in North Tyler, within the black district.

43 The Savoy Club is the new name of The Rose Room.

Matthews from total destruction. Perhaps Hardy had not been sympathetic with her charge because she was a woman, she reasoned. Maybe it was because she was young, and a woman. It could be that the chief would see things differently if someone else, a man, more experienced and knowledgeable would support her position. She would call Hardy again, and this time conduct the meeting differently.

Hardy arranged for them to met beside the highway on Route 64, the Old Dallas Highway that had been used prior to the construction of Interstate 20. It was still a favorite shortcut for Tylerites wanting to inter sect I-20 some 40 to 50 miles to the east, but the highway did not have the traffic it once did, and was certainly less traveled than the Interstate. The time and place was established, and Kim arrived in time to spy Hardy waiting for her. In her vehicle, she was accompanied by the narc team, Troy Braswell and Rickey Silvertooth. With them as witnesses, she again recounted the dimensions of Creig's problem, informing Hardy that Creig had not lessened his usage. Braswell and Silvertooth confirmed her position.

Hardy smiled slightly, nodding his acceptance of their tale. He asked Silvertooth and Braswell each if they believed Matthews was indeed addicted. Both men agreed that Creig had a real problem. Hardy then reached his decision. He asked Braswell and Silvertooth to go to Matthews and try to talk some sense into him. Over the insistence of Ramsey, Silvertooth and Braswell agreed that the Highway 64 meeting was conducted in exactly this manner, touching upon this exact subject matter. Hardy was later to deny it all. There had been a meeting, he was to agree, but the subject of Matthews' addiction was not discussed.

One must wonder why, if the subject of Matthews' addiction was not introduced, Kim should have felt the need to have Silvertooth and Braswell with her? Why would she have needed them to corroborate her story and confirm her opinions if the subject was not going to be discussed? In the light of "preponderance of evidence," the claims of these four witnesses to the content of this meeting still reflects a 3-to-1 edge for Kim Ramsey's story.

One must remember that one of the hallmarks of a good narc is that they are persistent. Most defendants will confirm that the tenacious quality of a narc was the prime reason for them to be behind bars. It was

part of Kim's training, therefore, to continually pursue a cause, and it led her to have one final meeting with Hardy to again present her case, hoping that he would this time relent and give Creig the attention needed.

"Thanks for coming to me with this problem, Kim," said the chief in soothing tones. "It's something I certainly need to be aware of. I appreciate your honesty and loyalty and I know I can count on you to tell the truth."

Kim now boiled. "The truth is, chief, that Creig has a real problem!" "Just do the best you can," he replied, and drove away.

For Kim Ramsey, the assignment given by Hardy to do the best you can," bordered on the absurd. She was expected to achieve what rehabilitative experts and the entire system of penology had been unable to do for centuries, and was expected to function as an effective narcotics agent at the same time. She found herself not merely disliking Hardy at that moment. She hated him. Not only was Hardy ignoring the extent of Creig's problem with narcotics, but had taken time during their final meeting to remind her that a case had still not been made on Ken Bora and even nudged her about other people whose names had been near the top of his "hit list." If there was to be any easy way to bust out, it was not apparent that Creig would have to continue the best he could and with her help, they would conclude as many cases as possible, by any means, and then perhaps they could write the ending to the chapter of their lives in Tyler. It was the only route she could envision, and she hated the prospect of it.

That night, she locked the door and turned off the lights. In the darkness, she spoke to Creig as would a counselor, telling him, "Look, honey, I need to talk now. I don't want anyone knocking at the door, so it's going to have to look like we're not at home. Here's what we have to do. We have to pull out all of the stops now. We have to make some cases. Lots of cases and fast. Whatever it takes, we have to bust out as soon as we can or you're going to kill yourself on this shit and nobody will care! Honest to God, honey, nobody will care except me! So, listen.... you have to get your head on straight for a little while and keep the needle down as much as possible, huh? We have to do some numbers on a lot of people in a hurry, and then we can deal with your problem the right way. Okay?" Matthews nodded meekly. He knew that she was right.

For the next few weeks, Kim and Creig worked at a feverish pace. The cases they built were fragile, but the reports detailing the cases were embellished, making them appear iron-tight, dismissing any reason to cast doubt upon them. All the stops were pulled.... the show had to go on. Diligently, they called upon their victims, luring them into situations that would later be described in grand jury indictments. They signed more vouchers now, making certain that their apartments would be well supplied and giving them sufficient drugs to later bag and label as evidence. Cherie Paro was to later state, "I saw her, (Kim Ramsey) every other day for the last three months that she was working undercover. I started seeing a lot more drugs than I'd ever seen in my whole life."

Eddie Little, who was later to be a defendant, joined those 'who claimed Kim would utilize her womanly charms, blending seduction with the making of a case. "It was real hard to say no to her," he would recall, "'cause she had a lot of ways of persuadin'."

Jerry Wayne Hayes, overweight and self-conscious, was to later relate one of the more pathetic tales of the Matthews/Ramsey activities: "Being that I was overweight, you know, I could get some diet pills if I went to the right places. They'd call me up wanting this certain thing. They even gave me some doctor's names that I could go to to get it and it'd cost me more like thirty-five dollars in a half a day and in return they'd give me three-fifty, four hundred bucks, you know? That's pretty hard when you have some children and you know work's slow. It's kind of hard to pass up sometimes."

Even Matthews and Ramsey were to reflect upon these days of the accelerated activity with a strange astonishment. "My apartment was the shooting gallery," said Matthews. "Kim's apartment was for the upper social class of Tyler, you might say. It became an expected thing for me to do (to use drugs). Methamphetamine, Qualude, and Demerol, Cocaine, and of course, Marijuana and some Heroin."

Kim would shake her head with the recollection. "It was a Coke party. This party went on just about every night throughout the length of the investigation, except on the nights that we worked the clubs. If it was an all-night thing, you'd go through a quarter of an ounce per user. Or half an ounce. Just depended on how much was around."

The extent the team would go to make a case reached alarming pro-

portions. If their gut reaction was that a person was a user, even though they had not witnessed the offense, it would be arranged that an offense would nonetheless take place. Theresa Tompkins, a waitress at the Point 21, was among those Matthews and Ramsey believed was a user, but they had never seen her partake. On one night, Theresa discovered a pill wrapped in a napkin, placed on her tip tray by a patron. "...I just unrolled it, y'know, and held it up and said, 'Hey, what's this?' Matthews went wild. 'Oh, my God, you know!' He said, 'I've got to have it!' And I tossed it down on the bar. They charged me later with delivery."

Matthews and Ramsey had established a whirlwind of activity with a set of priorities implanted within their minds. They would play Hardy's numbers game and bust out as soon as possible. They still didn't have a case on either of two of Hardy's top-listed subjects: Barry Austin Smith and Royce Wisenbaker, Jr. They had done some inquiring about town, dropping casual questions about the pair to unsuspecting people operating in Smith's and Wisenbaker's social levels. The answers were always the same. Smith and Wisenbaker no longer lived in Tyler. They were both living in Dallas. Not together, because they weren't acquaintances, but both in Dallas for their own reasons. It was learned that Wisenbaker was attending school in the city some 100 miles away.

Kim informed Hardy of the information. The two young men were not living in Tyler, but had apartments in Dallas. One young girl had been kind enough to give Kim a telephone number for Barry Austin Smith, and Kim handed it to Hardy, saying that it was all the information she could obtain on either of them. Hardy took the number, quickly reviewing it before reaching for a copy of the Dallas criss-cross directory. Within minutes, he scribbled Smith's address. He then pulled the Dallas phone directory from the shelf and scanned it. "Damn," he said with elation, "Wisenbaker has his telephone listed!" He jotted Wisenbaker's address on the same paper and shoved it to Kim. The mandate was established. Even though the two young men were not within their jurisdiction, Chief Hardy was silently implying, "Go get 'em."

Again, Kim was to later testify to this event:⁴⁴

Q: You said earlier that one of your targets was a fellow

44 United States vs. Willie Hardy, TY-81-43-CR, Transcript No. 6, Pg. 33-55.

by the name of Barry Austin Smith.

A: Yes, sir.

Q: Who told you he was a target?

A: Chief Hardy.

Q: What did he tell you?

A: He said he wanted a case on Barry Austin Smith because Barry Smith had a civil suit filed against the City of Tyler.

Q: Did you tell the Chief that he wasn't living in Tyler?

A: Yes, sir, I did.

Q: Did you tell the Chief he was living in Dallas?

A: Yes, sir, and I gave him a phone number where he was living in Dallas.

Q: Did he tell you to stop the investigation?

A: No, sir, he criss-crossed the phone number and gave me the address in Dallas so I could go contact Smith.

Q: You drove from Tyler to Dallas to go see one of his targets?

A: Yes, sir.

Q: What was the purpose of that?

A: To bring him back to Tyler and make a case on him.

Q: Was he dealing drugs in Tyler?

A: Not as far as I know, no, sir.

Q: And why would you go to Dallas to lure someone to Tyler to deal drugs?

A: Because Chief Hardy wanted a case on him.

Q: How many times did you have to go to Dallas to catch him?

A: I met him there the first time and did make one subsequent trip.

Q: You drove from Tyler to Dallas on two different occasions to try to make a case on Barry Austin Smith.

A: Yes, sir.

Q: Tyler city funds paid for this?

A: Yes, sir, they did.

Q: What about a fellow by the name of Royce Wisenbaker? Where was he living?

A: In Dallas.

Q: Did you tell Willie Hardy that?

A: Yes, sir.

Q: Was he on your target list?

A: Yes, sir.

Q: Did you go to Dallas to try to make a case on him?

A: Yes, sir.⁴⁵

Q: Did you lure him back to Tyler also?

A: Yes, sir.

With Matthews and Ramsey's new plan of action, time was a critical factor. Everything had to be done with excessive speed, if one can forgive the pun. To build cases on people living 100 miles away would consume considerable amounts of time; time that Kim and Creig could ill afford. The best way to "make" the young men on Hardy's list was to entice them back to Tyler and build a case at that point. Still, they didn't know Wisenbaker or Smith. It would require a snitch to do the number for them, and Tim McGuire was not in the social circle to know either of these targets. They would have to find someone else. Someone operating in the same social circle, and someone who could be flipped quickly and easily. Yes, they reasoned, it would have to be Randy Massad.

Kim and Creig had "made" Randy Massad many weeks before. In fact, on the night that Hardy had increased the bust quota to 100 plus Bora, they had attempted to forget the bitterness of the meeting by buying some Coke off of Massad and "blowing their minds." Yes, they knew that the good-looking son of one of the city's major clothiers where top-line labels were marketed to the elite, would be easily flipped and would cooperate in their efforts to make cases on Smith and Wisenbaker. Even in this scenario, however, some intrigue takes place. Matthews and Ramsey were to later claim that Hardy insisted on having Cocaine cases against Smith and Wisenbaker, wanting hard drugs charged against them. Both narcs were to relate that Massad began a series of telephone calls where he

45 A good chance exists that Kim Ramsey never went to Dallas, but probably pocketed the expense money and claimed to have taken the trip. Royce Wisenbaker, Jr. adamantly maintains that he was never contacted by Kim Ramsey in Dallas.

would ask Smith and/or Wisenbaker to bring him some Coke to Tyler where he would then reimburse them. Massad related each time that the young men had refused. Wisenbaker had no recollection, however, of Massad ever requesting Cocaine. Wisenbaker did admit to receiving calls persistently asking for top quality marijuana, but insisted that Massad never requested Cocaine. It can be readily assumed that Massad was faking the early calls asking for Coke; a ploy to satisfy his captors while still not endangering those he was supposed to be calling. Even though Massad had but a nodding acquaintance with Wisenbaker, he did inform Kim and Creig that young Royce was not a dealer, that it would be very difficult to influence him to bring any drugs of any kind to Tyler. For a while, the narc team seemed to be resigned to the fact that they would not be able to make cases on Smith and Wisenbaker.

It was late in the investigation that Matthews and Ramsey again contacted Massad, requesting that he telephone the young man in Dallas, this time asking for pot. Perhaps Hardy had mentioned that no cases had been made on these top targets, urging them to try again. It is certain, however, that this time, Massad did place the phone calls. Wisenbaker was to later reveal that he was "bugged" to death by Massad, receiving a series of calls with the same theme.... bring me some top line pot, I'll pay you back when you get here. In each instance, Wisenbaker refused, stating to Massad that he could get marijuana easily in Tyler, there was no reason for him to bring it. Massad was to insist that the pot in Tyler was so much shit, that he wanted some good stuff. At last, only because he had planned to go to Tyler that weekend anyway, Wisenbaker relented, stating, "Look Randy, if I can score some, I'll bring it, okay?" It seemed the only way to end the deluge of calls.

Wisenbaker was living in one of Dallas' better apartment complexes and had a knowledge of the workings of the drug culture. He was wise enough to know that when someone sat around the pool all day and never seemed to go to work, it was better than a good bet that he was a dealer. At his complex, there was such a man. The transaction was quick. One quarter pound, four ounces, top grade. One hundred and fifty dollars.

Upon returning to Tyler, Wisenbaker almost dismissed his agreement with Massad, but Randy was persistent. By calling a mutual friend, Massad

gained the telephone number where Wisenbaker was visiting old time acquaintances in their apartment. Massad immediately suggested that they meet at nearby Lake Tyler, but Wisenbaker was to refuse, suggesting instead that Massad come to the apartment to take delivery of the pot. Hearing the conversation, the resident of the apartment quickly interrupted. Don't let him come here, the man commanded, I don't want anything like that coming down here. Wisenbaker retracted the suggestion. "Look, it's raining outside," he said, "I don't want to get out in it too much. The Royal Pagoda's about six blocks away.⁴⁶ Meet me there in the parking lot, okay?"

Wisenbaker arrived first, but waited only seconds before Massad parked a car that was unfamiliar to him. It wasn't the same vehicle he remembered Massad having. There was a woman with Massad, and it wasn't the girl he remembered Massad dating. He shrugged and climbed from his car, dashing to Massad's. "This is Kim Ramsey," offered Massad, "she's my chick. She's cool."

Wisenbaker didn't want to spend too much time on the deal, stating simply, "Here it is," and telling Massad of the cost, \$150. Randy shoved him the money as Kim reached for the bag, sniffing the contents. She sighed with a broad smile.

"I was hoping you'd bring some Coke," she hummed. "God, I'd really like to score some good Coke. Have you got any leads on any?"

Royce, Jr. smiled. "You can get it anywhere."

"Shit," she moaned, "The crap here's no good. I want some really good stuff."

Well, if you've got the money, it isn't hard to get," advised Royce. "Where?" she asked excitedly, digging into her purse and retrieving a cigarette paper as she pinched the marijuana from the bag and rolled a hasty joint.

Wisenbaker watched her light the joint and puff luxuriously. He framed his reply with caution, "I've heard that there's always stuff in places where the jet set goes. Resorts, that sort of thing."

Kim raised her eyebrows with interest. "Like which ones?" "Any place where people ski," advised Wisenbaker.

46 The Royal Pagoda is a Chinese restaurant in Tyler.

"You go to those places often?" she inquired.

"Sure."

"Hey, maybe we could score at someplace like that, huh?" she said, nudging Massad with an elbow.⁴⁷

Wisembaker shrugged and informed Massad that he had to leave, that he had left a party to keep their appointment. Again, he ran into the rain and entered his car, driving away without looking back at the woman puffing the joint and smiling softly, for she had just made a case on one of the top targets Royce Wisembaker, Jr.

In the many months that were to follow, all of the parties to this chain of events would recount them with infallible repetition. Each detail would be recalled with a strange persistent consistency. No statement would be made to challenge one given by another of the party meeting that night. The facts would be indelible, and surprisingly important, for perhaps no other event in the course of the investigation would deal more directly with the issue of whether or not a "hit list" indeed existed.

The issue of the illusive "hit list" was to reign as one of the prime subjects of the drug investigation. Ramsey, Matthews, McGuire, and Lusk were to testify on many occasions that such a list had, indeed, existed. Willie Hardy was to persist in his denials that anyone in the investigation had ever been targeted. Yet, the odd events within the Wisembaker case prompts the question to emerge: If the hit list did not exist, why was there such extensive work done in luring Wisembaker back to Tyler? If Hardy did not know that Kim was making such extensive efforts to entice Smith and Wisembaker back to Tyler, who then approved the travel vouchers for her to travel to Dallas? With Matthews and Ramsey attempting to make as many cases as possible within a short period of time, why would they then detour and spend additional time in making a difficult case on Smith and Wisembaker? If the hit list did not exist, why didn't the Tyler Police Department, upon learning that Smith and Wisembaker lived in Dallas,

47 Wisembaker's statement about cocaine being readily available at skiing locations was later to prompt Kim Ramsey to testify that Royce Wisembaker, Jr. had extensive contacts with organized crime in exclusive ski resorts where large quantities of cocaine could be secured.

simply inform Dallas authorities of a drug user/dealer existing in their jurisdiction? The latter is the accepted procedure within the communications of law enforcement agencies, and is an accepted method of saving time, money, and efforts expended outside a department's established area of jurisdiction.

In spite of such vast areas of doubt, Willie Hardy was later to adamantly persist in his denials of the existence of a hit list. He was to deny knowing many of the people reported to have been on that list and was to deny all knowledge of Barry Austin's Smith's civil suit against the City of Tyler during the early days of the probe, and was to deny that he was ever required to issue an apology to the parents of Paul Woodward.⁴⁸

If the events encompassing the Wisenbaker case were to provide insights into the possible existence of the hit list, it did not serve to reveal why Wisenbaker was on the list in the first place. Matthews and Ramsey could typically account for motives that placed many of the targeted people on the list, raising the interesting question of how they would have known events dating far back in Tyler's history that would have prompted such vengeance if they had not been told of them, but they had no explanation for the priorities assigned in making a case on Royce Wisenbaker, Jr. Analysts of the trying times of the probe have assembled a series of rather credible theories, but these remain merely theories. Some of these hypothesis are exotic indeed. One theorist maintains that there exists within Tyler a man of unchallenged socio-political posture. The tentacles of his influence extend to his membership within the notorious Trilateral Commission and his participation on the executive committees of the prestigious NATO. It was this mysterious personage who blended benevolent civic acts with rather subversive plans manipulated through the city government. Among these plans was the elimination of much of the power structure by drug indictments levied against their children. Once done, he would reign alone at the apex of Smith County society. A

48 Matthews and Ramsey were later to claim that a defendant, Paul Woodward, had been placed on Willie Hardy's hit list because Hardy had been ordered by Chief Malloch to issue a personal apology to Woodward's parents over an alleged wrong Hardy had committed against them. This reported apology allegedly took place several years before the drug investigation.

scenario of dramatic proportions, but hardly supportable by known facts. Perhaps the most persistent theory again involves the mysterious white-haired oilman who allegedly bankrolled the drug investigation from its onset. If such a man did exist, the theorists claim, and had donated the large amount of cash needed to conduct the probe, then he would have reserved some power in the decision process of the investigation. In exercising that power, he could have pointed a finger toward those peers he most disliked. Among these wealthy enemies would have been Royce Wisenbaker, Sr. The theory is extended to rather absurd levels, but remains void of evidence, however plausible to some minds.

The most credible theory is the one providing the simplest ingredients. It is so fundamental that it cannot really be called a theory. It is merely an account presenting basic facts, irrefutable and totally within the framework of common belief.

Smith County is traditionally a Republican stronghold. In the midst of that aura of Republicanism, Royce Wisenbaker, Sr. remains as the Democratic oasis of hope and guidance. From his vast wealth, he supports the party's efforts and uses his massive influence in all corners of the state. He is the past president of the Rusk State Hospital Volunteer Council; president of Goodwill Industries in Tyler; served for 12 years on the Texas State Board of Health; has a ten year tenure as vice president of finance for East Texas Area Boy Scouts; is president of the new Tyler Psychiatric Hospital; has a dozen years as an elder of the Presbyterian Church and is the past president of the Tyler Catholic School Board where he served in that capacity for three years. He serves on the Board of Regents of Texas A&M University and participates in countless civic committees where he enjoys an enviable influence. His empire spreads into tentacles of ranch lands, immense oil properties, and the state's largest independent water company, and a wide collection of interests so varied that even he has trouble recalling them. For decades, Wisenbaker has possessed the Midas touch in his dealings and has been rewarded with the hatred and envy of many. In some respects, he has invited such wrath, for he keeps a ready tongue poised to relate what he believes to be true, no matter who might be offended by it. A "no" from Royce Wisenbaker, Sr., can be easily equated to a "hell, no." His opinions are presented openly and without an attempt to flavor them with any hint of diplomacy. It is not uncommon

for him to begin a reply with, "I'm going to tell you how it is, whether you like it or not. . . ." He does exactly that.

From the days of his youth, Wisenbaker was always a fierce competitor who gave little quarter. Winning has always been a prime ingredient of his game, whether it was high school athletics or bringing in a well deeper than anyone else would have dared to drill. When the oil community of Tyler was shocked with Wisenbaker bringing in a deep well with astronomical production in neighboring Wood County, he proceeded to drill another, duplicating the success. He is a man of commitment, blending his determination with a fearless obstinance. His long record of opposing those people and philosophies he cannot support includes many of influence, and the City of Tyler itself.

In spite of this image within his community of a wealthy, outspoken renegade, Wisenbaker had silently blended into that reputation some of the area's most benevolent deeds. Countless students who would not have completed their studies without his silent assistance, view Wisenbaker as someone far gentler, someone caring enough to provide aid in times of distress. A multitude of charities and causes have benefited from Wisenbaker's hidden nature, always cautioned not to make his benevolence known. He is a paradox of natures, depending on whom is viewing him.

For those disliking him and his postures, it becomes apparent that while one cannot argue with success, they can sure as hell attack it when it becomes too abrasive.

From this resume, the theory emerges within many circles that Royce Wisenbaker, Jr. was targeted as a means of discrediting his father's reputation. The extent of those efforts reportedly included a nocturnal visit to Wisenbaker's lake house with the intent of burying narcotics on the premises and later "discovering" them as an illegal cache. When that became infeasible, subtle, probing questions were asked within the community about the workings of Wisenbaker's family, spread over a wide geographic area. Did Wisenbaker's wife ever drink too much? Did she ever gamble? Was there ever any drug use among his daughters? Were there any family skeletons that could be rattled anew? With negative answers coming to all such queries, it became apparent that the only route toward discrediting Wisenbaker was to entrap his only son. By damaging Wisenbaker's image,

his political clout would be lessened, and the public confidence in his views or opinions would be decreased. This became a sound theory, one of great merit.

It has been stated here that, within this theory, Royce Wisenbaker, Jr. would be entrapped by narcs wanting to build a case against him. Some Tyler attorneys have maintained that Wisenbaker was not entrapped, stating that the narcs only "provided ample opportunity" for him to violate a law, which is permissible by statutes. That opinion may be widely supported within Tyler's legal community, but is not in keeping with the opinion of the state's highest legal authority, the Texas Attorney General's Office.

Such attorneys must recall that the entrapment statutes have changed since 1978-79, and an attorney of long standing with the Attorney General's office provided a rather dramatic account of entrapment, even though he knew nothing of the Wisenbaker case: "I come up to you and say, 'Hey, man, I'm hungry. I sure could get off on a couple of reds.' Now, you blow me off, but I keep coming back. Finally, just to get rid of me, you go next door, borrow a couple of reds and give them to me. That is entrapment."

The presentation offered by the attorney oddly duplicated Wisenbaker's ordeal exactly. The ingredients of a persistent informant being refused but returning with the same request is reminiscent of the telephone calls from Randy Massad. The fact that Wisenbaker had refused on earlier occasions indicates that he was influenced to commit a crime he was not "predisposed" to do.

Even when presented with the opinion of the Attorney General's Office, area attorneys (many of them) persist in their claims that Wisenbaker was, nonetheless, guilty. "He still used dope and he still brought pot into Tyler," they collectively summarize. This strange posture is akin to "casting the first stone." In the hallowed confines of the state's law schools, drugs are not an unknown entity. Most attorneys subscribe to the Texas Law Forum, an organ of their discipline of lofty renown. Those reading this publication should recall that the Texas Law Forum once revealed that a survey conducted at the University of Texas Law School produced the statistic that 75 percent of the students had sampled marijuana, and that a full 25 percent sample it regularly. Perhaps the prime difference, then, in the founding of their moral postures is that their law

schools were not infiltrated by the likes of Creig Matthews and Kim Ramsey. Had that happened, the scope of entrapment would have taken on a new perspective, indeed.

Ed Wagoner was a politician. He had the demeanor of a politico and the smooth-talking aura of one always seeking some unknown goal. He had finesse, leading Hardy to conclude, ". . . he would have made one helluva narc" when speaking of Wagoner to Mike Lusk. Tall, slender, greying temples, Wagoner had the appearance of someone stepping off a page of the Gentleman's Quarterly.

As City Manager of Tyler, Texas, Wagoner could wield unusual power. While Tyler had a Mayor, Robert Nall, it was the City Manager who called the shots and reporting to the Mayor was but a nuisance built into the city charter. In viewing Wagoner, one gained the impression that he was a step above the surroundings assigned to him through his position. His office was slotted against the far north side of the rather humble City Hall. The Police Station was relatively new and had a much better appearance than did City Hall, and Wagoner enjoyed visiting there, chatting with Willie Hardy and gaining inside information to the workings of the department. The police were, after all, under his authority, and he kept a close rapport with most of its dealings. Once that was done, he would return to the rather dismal atmosphere of his office where there was nothing elaborate, nothing specifically private, testifying to his stature or rank within the city structure.

For one endowed with an aggressive nature, the job of City Manager could create serious doldrums. Reports on street pavings and listening to the mundane matters droned over within the City Council chambers did little to stir one's imagination or build a new incentive. Only the police department offered the slightest flavor of excitement, for it at least had a super-secretive drug investigation going on. And to add to that flavor, Willie Hardy was of a breed that Wagoner could understand. The rigid adherence to every rule exercised by Ronnie Malloch was now far more liberal. When something needed to be done, there could always be found a way to do it. Willie shared that philosophy.

An extension of that philosophy dealt with a shared belief that the city stood alone. Other governments and agencies outside of the city structure were not arms of a collective governing organization, but enemies to be considered, manipulated as pieces on a chess board. It was already recognized that once the drug bust took place, the city would have to deal with such governments, such agencies. There would be the District Attorney, a county employee, scrutinizing every case. There would be the Smith County Sheriff fuming over the fact that he had not been informed of the investigation. The Texas Rangers would maintain their posture of aloof dignity, but would be nonetheless envious of the magnitude of the police department's private drug bust. The Department of Public Safety would wonder why their resources had not been more widely used. Sheriffs deputies would seethe with the sudden assignment of serving warrants on drug suspects outside of the city limits, knowing all the while that they were being subservient to the Tyler P.D. Yes, the city stood alone. Everyone else in government existed as "them."

Wagoner's secondary imagery included the realization that with the forthcoming drug bust, Tyler would be on the tongues of people throughout the state; perhaps the nation. The magnitude of the probe had reached such proportions that it would rank as one of the major drug investigations in America. When that moment came, he would not want to be left in the shadows as would be all other city officials with the exception of those within the Police Department. No, he would maintain an active role in the activities of the department, and when the time came for the news hounds to invade Tyler, he would certainly be among those standing before the camera lights and smiling in the staccato flash of the newsmen's strobes. It was the practical thing to do if one worked within the realm of politics. And, after all, he had given his assistance to Hardy on countless occasions.

The only other person sharing the philosophy of aggressive pursuit and joining in the "insiders" group where information concerning the investigation would flow openly, was Tyler attorney Charles Clark. Clark, who had a long history of representing the city in a variety of matters, was among Ronnie Malloch's closest friends, and was one to be trusted by those serving as guardians of the city's secrets. Clark would also endorse the concept of other governments being categorized as "them." He cer-

tainly had no love for Smith County Sheriff J.B. Smith. At the time of the Gresham Pasture Incident, Clark had been representing Smith as counsel in a civil action filed by one Mary Alice Choice.⁴⁹ Following that event, wherein Clark's son was one of those detained within the pasture, Clark wrote a blistering Motion to Withdraw to the U.S. District Court. The content of that motion is worthy of reproduction:

MOTION TO WITHDRAW

TO THE HONORABLE JUDGE OF SAID COURT:

Now comes CHARLES H. CLARK herein called Movant and requests this Court to allow him to withdraw as attorney of record for the Defendants and as grounds for such motion would show the Court the following, to wit:

I.

Movant originally agreed to represent the Defendants at the request of J.B. SMITH, Sheriff of Smith County, Texas. Movant agreed to accept employment for the Defendants without pay because of Movant's friendship with Defendant J.B. Smith.

II.

On the 29th day of October, 1977, at approximately 11:30 p.m., Movant received a call from the Smith County Sheriffs Department informing him that his son had been arrested for being drunk at "Perkins Farm" near Gresham, Texas. Movant was told by the caller who represented herself to be the dispatcher with the Smith County Sheriff's Office to come to "Perkins Farm" and get his son or to the jail if his was not not at "Perkins Farm." Movant went to "Perkins Farm" and did not find

49 Mary Alice Choice vs. J.B. Smith, Sheriff of Smith County, Texas et al, United States District Court for the Eastern District of Texas, Tyler Division, Civil Action No. TY-77163-CA.

his son but learned that he had gone home. One of the Defendant SMITH's deputies told Movant that the "kids were all drunk but had been allowed to go home." Movant returned to his home and found that his son was in fact at home. Movant smelled his son's breath and there was no smell of alcohol. Movant's son stated that he had not had any alcoholic beverage to drink. Movant's son related that he and his date attended a rodeo south of Tyler which had been with Movant's consent. He stated that he had been invited to Dr. Jim Wood's farm near Gresham for an after rodeo party. He said approximately seventy young people had gathered at the farm in a place approximately 200 yards off the road. Some of the young people were as old as 18 years and some as young as 16. He said he had not seen anyone drinking beer. He said that they were previously listening to a tape deck and talking. Movant's son stated that without warning a group of Deputy Sheriffs descended upon them and that several of the young people were handcuffed and in at least two instances choked and kicked in the groin. One young man had been shot at and one deputy had brandished what appeared to be an automatic weapon which was pointed at a group of youngsters who were told that if they moved they would be shot. Movant's son was called a "son of a bitch" and a "mother fucker" by a deputy who was identified by only his last name of Turk. There were approximately 12 Deputy Sheriffs at the scene. Movant's son has never been in any disciplinary trouble at school and has had no previous encounter with a law enforcement officer. Neither has he been a discipline problem at home. The other children whom Movant's son identified as being at the gathering were known by Movant and with only one exception were known to be well behaved youngsters whose parents represent a broad cross section of the citizens of Tyler, Texas.

III.

The following Monday, October 31, 1977, Movant

read in a local newspaper that two deputies had been fired as a result of their behavior on the night of October 29. They were deputies England and Turk. On that same day Movant learned of Defendant SMITH holding a press conference where he stated that he had been pressured into firing the deputies and that the youngsters involved had been having a "beer bust" and were a group of "spoiled kids" with "spoiled parents." This type of behavior by Defendant SMITH caused Movant to conduct an investigation into the matter because many of Defendant SMITH's statements conflicted with many of the statements made not only by Movant's son but by other parties with knowledge of the incident with whom Movant had conferred.

IV.

Movant's investigation revealed that Defendant SMITH had made many false statements including but not limited to the following, to wit:

1. "That a 'beer bust' was taking place." Defendant SMITH knew or should have known that only two small styrofoam coolers of beer were found by the deputies. This could hardly have been a 'beer bust' for approximately 70 persons. Movant also learned that not one single charge had been lodged against any person for drinking beer or having beer in their possession or for any violation of the law;
2. "That an automatic weapon was not used." Movant has learned that the weapon involved was in fact a Smith & Wesson 9mm automatic weapon. This fact has been verified by a person who was employed by the Sheriff's department when the weapon was purchased.
3. "That he, Defendant SMITH, knew Deputy England to be a good officer who had been recom-

mended to him by the Tyler Police Department." Defendant SMITH was formerly employed by the Tyler Police Department at the same time Deputy England was employed by the Tyler Police Department. At that time, Deputy England bore the nickname of "Maddog" while employed by the Tyler Police Department. Deputy England was involved in various incidents including but not limited to the following:

- a. The serious wounding of a young man who was riding a motorcycle with his pistol. The only violation committed by the motorcyclist was a traffic violation;
- b. The assault on a female which took place in the month of September in 1974. There was no probable cause for the assault.

Deputy England's record with the Tyler Police Department was one of constant abuse of citizens and resulted in numerous citizen complaints. "Maddog" was finally placed on a status of being closely supervised and resigned under pressure. All of these facts were well known to Defendant SMITH. When he hired Deputy England he was warned by a member of the Tyler Police Department that Deputy England's record for citizen abuse had been bad. He was advised not to hire him. Within one month prior to the incident of October 29, 1977, Deputy England assaulted a truck driver employed by Eagle Truck Lines and shot the tires off the truck and destroyed the interior of the truck for no apparent justifiable reason. (Sheriff SMITH took no disciplinary action in this case)

5. "That he had fired deputies Turk and England under pressure by parents when they abused him." The facts are that Defendant SMITH told a group of parents that met with him on Monday afternoon that he had already fired one of the officers

after he, Defendant SMITH, had investigated the incident and was considering firing two others.⁵⁰

6. "That the group of youngsters involved were from rich and elite families." Defendant SMITH knew that the families involved were neither altogether rich nor poor but represented a cross section of the community. He knew that one of the complaining parties whose son had been handcuffed and who had been kicked in the groin by his deputies was the son of a Smith County Constable.

V.

Defendant SMITH met with the Movant on Tuesday, the 1st day of November, 1977. After a lengthy discussion in the presence of a witness, Defendant SMITH agreed to have the FBI investigate the case, to suspend three officers involved pending the investigation (the third deputy being Deputy Goodman) and to call Movant the following morning and confirm that the agreement had been carried out. The three officers were not suspended as agreed. In fact, Deputy Turk was rehired the following morning. Movant has not received a call from Defendant SMITH. It is Movant's understanding, however, that the FBI is conducting an investigation but this was learned from a source other than Defendant SMITH.

VI.

During this discussion with Movant on Wednesday afternoon Defendant SMITH was asked repeatedly to explain why deputies went on private property without probable cause and abused young people. Defendant SMITH offered no explanation and during the discussion contradicted himself constantly leading this Movant to conclude that Defendant SMITH was unable to tell the truth.

50 In the original transcript of Clark's motion, he inadvertently skipped point #4.

VII.

Movant has also discovered that on August 8, 1977, Defendant SMITH met with several of his deputies who along with officers from the Tyler Police Department and the Whitehouse Police Department⁵¹ were planning a raid on a place on Lake Tyler known as Deacon's Landing. The purpose of the raid was to arrest suspected drug users. At the meeting Defendant SMITH told his deputies in the presence of witnesses that if any of the young people "give them any lip, they were to crack their skulls." He instructed the officers from the Tyler and Whitehouse Police Departments that if they hit anyone that his men would say his deputies hit them because Defendant SMITH said "I can stand the heat." Deputy "Maddog" England was in the group of deputies who made the raid. Movant has learned that the conduct of Defendant SMITH's deputies on that occasion was less than should be expected of law enforcement officers and that abuse of citizens had taken place at the hands of Defendant SMITH's deputies.

VIII.

Because of the facts which are stated herein, Movant feels he can no longer represent the Defendants in their lawsuit for the following reasons, to wit:

- a. Movant has lost all confidence in the integrity of Defendant SMITH. Movant has witnessed Defendant SMITH telling falsehood after falsehood to cover up unlawful and illegal acts by his deputies. Defendant SMITH has been guilty of telling falsehoods to the Movant about the incident in question and has used the news media to create a completely false impression of the facts surrounding the incident in question. In Movant's opinion, an attorney must completely believe in his client's integrity in order to properly represent

51 Whitehouse is a community neighboring Tyler, Texas.

that client. It would be impossible for Movant to represent Defendant because of his complete faith in Defendant SMITH's inability to tell the truth.

- b. Movant believes that Defendant SMITH has in his employment a deputy who has followed a course of abusing citizens whom he has arrested. Defendant SMITH is aware of the past record of Deputy England and yet he keeps him as a deputy sheriff. Movant believes that in all probability Deputy England will ultimately cause the death or serious injury to an innocent citizen. By reason of this knowledge of these facts, Movant has been disappointed and is totally disgusted with Defendant SMITH. For this reason, Movant should not represent these Defendants.

IX.

In making this motion, Movant does not in any way direct what has been said about Defendant SMITH to the other Defendants. However, by reason of Defendant SMITH being the Sheriff and the other Defendants being his deputies Movant believes his position would be untenable insofar as the other Defendants are concerned.

X.

If Defendant SMITH desires to deny any fact stated herein, Movant requests that a hearing be held to determine this Motion.

WHEREFORE, Movant prays that this motion be granted for the reasons stated herein.

CHARLES H. CLARK

ATTORNEY FOR DEFENDANTS

No, Charles Clark had no love for J.B. Smith. Later in this writing, it will be revealed how Clark was to reverse every principle predicated his Motion to Withdraw. The noble attorney who believed that "an attorney

must completely believe in his client's integrity to properly represent that client," would rally to the defense of none less than Creig Matthews and Kim Ramsey. But in those early spring days of 1979, Clark was comfortably affixed within the inner circle of those privy to the flow of information from the Tyler Police Department and was the trusted ally of Ed Wagoner.

If Wagoner liked his influence within the police department, it was an association enjoyed and appreciated by Willie Hardy as well. In Wagoner, Hardy found a ready supporter, a "go get 'em" type of person who rarely placed restraint on any plan, but ingeniously contrived methods by which those plans could be best executed. He could authorize any activity through the powers granted to his office, and his scope of understanding of law enforcement was greater than that known to most city managers. Yes, Willie Hardy appreciated Ed Wagoner. The debonair City Manager would be drawn into the circle.... the circle of Hardy, Wagoner, Clark, Lusk, Findley, and others.... the circle to be known as 'Willie and the Boys'.. . the circle that was ever closing in upon them, like quicksand.

"It has got to the point where entrapment is the standard method of making a case. Agents are not only using drugs themselves, they are planting the seeds of the crime. When an undercover agent says to a peddler, 'Can I score with you?' that is entrapment. Now it's a shame to do away with entrapment because it is very effective in terms of arrest and conviction. Unfortunately, arrest and conviction seem to be the only concerns of these agents. I don't want my children victimized by agents like that, and I don't think the people who elected me do either."

*Sheriff Raymond Frank
Travis County, Texas*

THE BIGGEST DRUG BUST IN EAST TEXAS

Most of the work had been done. The "body count" of the drug bust was now nearing Hardy's alleged demand of 100. Prosecutable cases had been made on most of the subjects found at the top of the reputed hit list. Still, the investigation had its problems. Now, Tim McGuire was an active informant. Randy Massad had been flipped. Kit Dane Richardson was cooperating fully in the role of a snitch. Others had joined the ranks. The snitches were becoming too numerous to trust, but their roles were necessary to complete the magic number within the framework of time Matthews and Ramsey had felt was necessary. Still, the flow of information was too great, too easy. Too many people now knew that Jim Meyers and Karen Brooks were actually narcs.

It was this dangerous situation that led Creig Matthews to call for a meeting with Willie Hardy. In recent days, Matthews had been completing the case being built against the potential defendant that they considered to be among the most dangerous; Patrick "Cowboy" Denmark. Denmark was described simply by Matthews as being "a real heavy." In those weeks,

Creig was socializing with Denmark and together, they had shared Coke and Speed and had formed that users' relationship that never could be called friendship, but resembled more of an alliance where one of the pair could usually be counted on to have a supply of a drug. Still, within their relationship, two factors dominated; Creig didn't like Denmark and there was always the risk that someone as street-wise as Cowboy would wise up to the fact that he had been associating with narcs. For someone like Denmark, such a realization could be deadly.

In the midst of this intrigue, another confrontation with truth emerges. Creig Matthews was later to relate a strange event that would, of course, be denied with equal ferocity by Willie Hardy. Surely somewhere between their tales lies the truth, but for the purpose of this revelation, we shall depend directly upon the testimony of Creig Matthews:

"During that time, Hardy comes up and said, 'We've got to kill one.' To scare everybody. If the police up and kill a defendant, what impact is this going to have on the rest of the defendants?"

Kim Ramsey nodded with Creig's narration, adding, "They all jump up and say, 'I'm guilty, let me plead.' "

"He said, 'Who's the best prospect to kill?'," continued Matthews. "I said, 'Well, Denmark is. He's on probation for armed robbery.' He said, 'Well, see what you can do.' Well, I didn't think the idiot (Denmark) would go for it. I went to Cowboy and said, 'Let's go do us a hijacking.'⁵² He said, 'Okay, what do you want to hit?' We had it scheduled on a Saturday night. I don't remember the date. Like on a Tuesday and a Thursday, he wanted to hit a couple of places. I gave him money so he could go get a fix so he wouldn't hijack these places so we could do it on a Saturday night or Sunday morning so we could kill him. I told Hardy about it and he said, 'Hey, we got two police on the roof, and at least one across the street.' I said, 'Great.' "

Kim shook her head in disbelief in recalling the incident. "To give you some idea what Hardy's perspective was, after the investigation was over, Mike (Lusk) told us one of Hardy's suggestions on how to do this. While Creig and Denmark were in the store, he was going to have someone to run over and jack the back of Cowboy's car up so that when he jumped in

52 Within the criminal element, an armed robbery is often referred to as a hijacking.

and started to go, his back wheels would spin and they could blow him away in the car."

Creig chuckled with the thought, adding, "When I went back to Hardy to tell him that the robbery had been arranged, he was tickled to death. He told me where to go and how to set it up. He told me where to park the car, what door to use, who was going to be on the roof, the whole thing. At the time, everybody thought it was a cool thing to do. But when I didn't show up, Hardy was as mad as hell. He said, 'What were you doing?' I ran a rib on him.⁵³ I said the dude was shooting speed all night long and he would have killed somebody so I didn't take him. Really, I was out partying. I wasn't about to take him. It would have been coldblooded murder. It didn't matter if you were wearing a badge or not. He (Hardy) knew that."

On the surface, one may easily conclude that this bizarre tale of a murder being plotted within the trusted halls of the police department was surely nothing more than an illusion called forth from Matthews' and Ramsey's fertile imaginations. Yet, Matthews had made one rather interesting comment that prompted the need for further investigation into this allegation. "At the time, *everybody* thought it was a cool thing to do." Everybody? That implies that more than just Matthews and Hardy knew of the plan. If there was any truth to Matthews' tale, then others would have had to have known, for who were the officers on the roof? Who was the policeman across the street? These men would have had to have been assigned to their posts, and thus informed of what was expected to take place.

It soon became apparent that no one still working with the Tyler Police Department would jeopardize their position by revealing an incident as volatile as this. The sources of information would have to be former officers no longer dependent upon the Tyler hierarchy for their security. One such officer was the former head of Tyler's vice division, Mike Lusk. Lusk related the story of a robbery of a Safeway store in Tyler taking place in the mid-70's. Police snipers were stationed around the store (clearly indicating that the police knew the robbery was going to take place) when robbers emerged and in the ensuing gun battle, one suspect

53 "Running a rib" on someone, in street jargon, means to fool them with a falsehood.

was shot in the back and killed. "If I'm not mistaken, I believe that was by Chief Hardy," stated Lusk.

"...it was common knowledge around the department what the Safeway deal was. You know, kill a couple of hijackers and that'll stop your armed robberies for a while. People will cut that out. And, he (Hardy) made that comment to me, that it was about time that we had another Safeway deal. He strongly encouraged me to stay in touch with Creig and he told me that he had a relative or a good friend who ran the convenience store at the corner of Broadway and Shelley Drive, I believe. He wanted me to relay that information on to Creig with a date and time to set it up and he and Findley would handle the police logistics on the police department end of it if Creig would handle that end of it. He mentioned the fact that, 'Well, I'll have a throw-down gun out under the dumpster. I had a meeting with Hardy and Findley and more or less hand-picked the people to be involved in the briefing to.... of the morning it was supposed to take place."

When asked if he could remember the names of those "hand-picked" men, Lusk replied, "I remember myself, and A.D. Ethridge, Eddie Clark, Lieutenant Adams, and to be honest with you, I can't recall who else. There were about fifteen, I think. That's a ball park figure. Quite a few names were thrown into the hat. There was a briefing, and part of this briefing, the Chief said, 'Well, if it goes down, you know, we're probably going to have to kill him.' More or less like that. I don't recall exactly how it was put to me, but the information and the bottom line was that, hey, we're gonna take him off. Consequently, the robbery never did go down. There was a lot of different schemes devised as to how we could do it and who could be where and all the logistics, but the bottom line and the way it was put to me was that, quote, "...another Safeway deal. We're gonna take him off. We need a killing."

Confirming Lusk's account was Phil Megason, a former Tyler patrolman who recalled a day when Lieutenant Adams suddenly appeared while a group of officers were having lunch at a Tyler restaurant. Adams reportedly asked, as Megason could recall, "Who among you could kill a man?" When the response was slow in coming, Adams pointed to one of the officers and said, "I know you were in Vietnam. You ought to be able to handle something like this."

The tale was later confirmed by two other former officers, Jim Collins and former Tyler police lieutenant, Ronnie Scott.

Slowly, the building blocks of the story began to take form. After five years, it is difficult for anyone to recall the details of a fabrication, but the truth keeps its form and sequence. In each interview, these former officers repeated the details with surprising uniformity, continuity, and with near duplication of detail. In some instances, the subjects being interviewed were now scattered over a wide geographic area and had lost contact was not the opportunity for some network of communication to have issued the warning that such questions would soon be posed. None of the officers knew who would be asked next. No, the reports became supportive of one another and the thread of doubt began to take the shape of a fabric of outright suspicion.

As if the assembled testimonies of these former officers had not been enough, a former owner of the convenience store Matthews stated would be the assigned target was located. Tylerite Tony Howard was to relate that the manager of the store he owned reported to him that "something is going to be coming down here Sunday." Now, the fabric had design, and it was of a disheartening nature.

Even with the massive buildup of the investigation and the all-out effort on the part of Matthews and Ramsey to conclude their cases, nothing could be charged against Ken Bora. The number one target was still clear of any offense, and the second-on-the-list, Frank Hillin, was equally clean. The rest of the list had been fairly well completed and with no small amount of satisfaction. Matthews could recall a time in the early part of the probe when he had first moved into the Strawberry Ridge Apartments. The thought came to him as he reviewed the roster of those they had made cases on and the name, Bill McCain appeared before him. Seeing the name and remembering the event brought a smile of satisfaction to his lips.

"When I first moved into Strawberry Ridge," Matthews was later to state, "Bill McCain and McGuire were living together just across the sidewalk from me. I got to talking to them one night and McGuire said, 'Don't worry about the heat around here. My roommate's the district attorney's nephew and if there's any heat around, we'll know about it.' Strangely enough, less than a week later, Bill McCain moved out without

explanation."

Now, McCain's name was on the list, and as Matthews reviewed it, the panorama of all the people identified there floated through his mind. Paro and McGill, the lovers who snorted dope and committed burglaries as their weekend recreation. McGuire, Massad, Kit Dane Richardson, and all the snitches. Teresa Tompkins, the hapless waitress who had discovered the pill on her tip tray. David and Mary Ashcraft. ... ah, yes, David and Mary Ashcraft, the unsuspecting couple who had endeared Creig and Kim to the point that they considered them among their best friends. The list went on.... but did not include the names of Bora or Hillin.

Kim was later to reveal a meeting conducted in the backyard of Hardy's home where the subject of Ken Bora and Frank Hillin was discussed. Her head would shake with disbelief with the recollection of detail, but she said, "We had a meeting in his (Hardy's) backyard. Creig, myself and Hardy and Troy Braswell (the narc who was a friend of Matthews and Ramsey). Creig told Hardy he couldn't make a case on Bora. I can't get next to him. I added that I couldn't get next to Bora unless you want me to commit some perverted sexual act with the man. Because that was what it was going to take to buy dope off Ken Bora. Hardy was standing there with us saying we couldn't buy dope off of him. He kept saying, 'When are you going to make the big case?'"

Creig Matthews: "I walked out of there with Braswell and I said, 'Braswell, what do you think?' And he said, 'He's obviously telling you to stash on him.'You have to understand narcotics terminology. Nothing's ever said. Did you stick a needle in your arm? No, that's not said. You have a *problem*. It was understood that *problem* meant shooting dope. I can't buy dope off the man. When are you going to make the big case? It was understood. Stash on him."

Kim interrupted, smiling, "It was understood. Stash on him. You read between the lines. This just rubs off when you're out there working." Matthews agreed. "You communicate that way on the streets. You never say anything straight out."

The point of whether or not this subject was ever truly discussed was also denied by Willie Hardy in later days. Hardy was to deny that a hit list ever existed or that he had, however indirectly, suggested to Matthews and Ramsey that a "stash case" should be made on Ken Bora. The scope

of his denials would include the concept that he had not even targeted Ken Bora as being the prime goal of the investigation, but insisted that Bora was but "one of the people we were *interested* in."

The allegation that the street language within the drug culture rarely speaks of matters in straight-forward language has been confirmed by contact with many within that element. To that degree, Matthews and Ramsey have told the truth. To further substantiate or disprove the charge that Hardy ordered a stash case on Ken Bora is nearly impossible. The only other witness to the reported event, Troy Braswell, however, fully supports the account given by Matthews and Ramsey, that Hardy did, in fact, suggest that a case be made on Bora by any means, and in the jargon of narcs, that clearly implied a stash case.

Whether Hardy meant to indicate that Bora should be framed, it was apparently the impression given to Matthews, Ramsey and Braswell. In Matthews mind, it was something that would have to be done. Hardy would not rest until Bora was made. If they ever wanted to bust out, they would have to make Bora any way possible. Yes, they agreed, they would stash on him.

Matthews didn't like the idea. He has never shaken the belief that Bora was not a heavy. He had been associating with the real heavies in Tyler, and he could see that Bora did not fit into the mold. He could not help but compare the businesslike attitudes of Ken Bora to his first meeting with Patrick "Cowboy" Denmark.

"After the overdose," Matthews began, "there became a question of courage. I was running with guys like Denmark and Johnny Berry, people like that, heavy people who carried guns all the time. Cowboy was on probation for two armed robberies, Johnny Berry had just gotten out of the County jail for armed robbery. I scored off those guys the first night I met them. I walked past a car and one of them handed out a joint and I said, 'Hey, punk, haven't you got any good dope?' He said, 'I ain't no punk. I got some good dope. What do you want?' I said, 'I want some crystal, I ain't no punk. I don't smoke weed.' He said, 'I ain't a punk either. Get in the car.' He said, 'I don't like to be called punk.' This was Cowboy. So we went over and scored. It was the first time I ever saw him. They were hot at me. Both of them had pistols on them. They'd draw you up a rig⁵⁴ and

54 "Drawing a rig" is street jargon for preparing a syringe with narcotics.

hand it to you; both of them standing there with guns. You had to fix. I knew the dope wouldn't kill me because I saw them fix it. But I knew those guns they had would. After that, it became a question of courage. I was using drugs to get courage to run with people like that. I once walked into one house and there were three ounces of crystal and six pistols on the table. It was the same type situation and they were wired to the max. They were using a lot of PCP, crystal and speed. They didn't have enough class to use coke. They were just junkies."

Matthews thought of Cowboy for a moment, adding, "He was doing burglaries and dealing dope."

Kim nodded her agreement. "He was just surviving. He was one of the youngest bank robbers in history."

"Yeah," smiled Matthews, "he robbed a bank in Arizona when he was nine-years-old. Cowboy was bad. He'd kill you in a minute."

Now, near the top of the roster of "potential defendants" (the favorite term used in narcs school) rested the name of Patrick "Cowboy" Denmark, and it was one case that Matthews did not regret.

Making Bora would be quite another matter. Before it had even been planned, Matthews knew that he would feel badly about it. Ken had treated him well. He had promoted him from bar back to cashier as a testimony of his faith in him. Bora had been truly sorry when Creig had been overdosed in the club. Always, Bora had seemed ready to be of assistance if any of his employees needed it. Yes, it would be a difficult thing to set him up and he would feel badly about it.

Everything about the investigation and Tyler had resulted in having difficult things to be done. From time to time, Creig and Kim had taken trips to Austin or Houston to make further contact with other narcs and to substantiate cases being made. On one such trip, they encountered a couple of dealers in Houston who informed them that they could turn them on to two kilos of cocaine. With excitement, they immediately contacted Hardy and later asserted that Hardy informed them that the transaction would have to take place in Tyler or he would not permit them to do it. A two kilo cocaine deal! It was unbelievable to them, but was cataloged away as another of those difficult things to do within a very bizarre drug investigation.

Stashing on Bora would be difficult, but it wouldn't be the first.

Already, Matthews had stashed other suspects who would later have indictments returned against them. He would admit to four.

"There was Sparkman," said Kim Ramsey. "Gary Don Sparkman. He was dealing all over Smith County. He kept promising delivery, but never would show up for us. So, I put two grams of coke on him."

"And James Clemens," added Matthews. "He was a stash case. Clemens was a DEA informant. He OD'd right in front of me. I told him, 'Don't do that much!' He sat there and told me, 'When my kids get a little bit older, I'm going to go ahead and turn them on to drugs so I'll be with them and teach them about drugs. I don't know why I stashed on him because I could have bought off him. My head wasn't straight. I assure you of that. He had three and a half grams setting right in front of him. I just said to myself, hell, you're going to turn your kids on, you're going to be going to the joint.'"

And there were other stash cases. Royce Lundy, Arlon Underwood, and even Steve McGill, the notorious boyfriend of Cherie Paro. If someone couldn't be entrapped in those later days of the investigation, there was always the alternative of a professional stash case.

On April 1, 1979, ironically April Fool's Day.... Creig and Kim submitted a case report to their superior within the Tyler Police Department. The pertinent portion of the report read:

"On Saturday, March 31, 1979, Agents Matthews and Ramsey were working in an undercover capacity at Anothre Place Club, Tyler, Texas. On 3-31-79 at about 10:30 p.m. near the pool room of the club Agent Matthews contacted Bora, Ken, and advised him that he, Agent Matthews, needed to talk with him about some business that was being talked about by other people. Bora, Ken, escorted Agent Matthews down the hallway past restroom and the pool room to a location near the rear of the building and asked Agent Matthews what he had heard. Agent Matthews advised that they had a mutual acquaintance by the name of Ellison, David, who in the past had told Agent Matthews that Bora, Ken, was responsible for the deaths of two persons, one in Odessa, Texas, and one on the Texas-Mexico border. Bora, Ken, was further advised that Ellison, David, had stated that Bora, Ken, had worked as an enforcer for organized crime in Las Vegas, Nevada, and was known as the best one-punch man in the city. Further Agent Matthews was told by Ellison, David, that Bora,

Ken, now produced and sold all child pornography in the State of Texas and was now in the process of taking control of all clubs in East Texas. Bora, Ken, was further advised that Ellison, David, had stated that he was at this time on probation for pornography and had recently employed Ellison, David, to do a couple of jobs for him which he was afraid to do because of consequences. Bora, Ken, stated he was on probation but did not know anything about the other things mentioned. Agent advised Bora, Ken, he just wanted to make him aware that his business was being talked about. Bora, Ken, stated, 'I appreciate the information and is there anything I can do for you?' Agent Matthews countered with the question, 'Is there anything going on?' Bora, Ken, stated, 'There's some snow around if you're interested in any.' Agent Matthews stated he would like to buy some cocaine but would not be interested in anything less than an ounce. Bora, Ken, stated, 'I have a lot more than that but I have an ounce with me now for \$2,400 if you have that kind of cash.' Agent Matthews removed \$2,450, counted out \$50 and handed Bora, Ken, \$2,400. The defendant (Bora) removed from his left pants pocket a plastic bag of white powder and turned facing the rear door and unrolled the plastic bag for Agent Matthews to examine. Agent Matthews noted the time to be 10:20 p.m. and returned to the location of Agent Ramsey and advised her of the purchase of Exhibit Number 1. Upon leaving the club, Agent Ramsey was shown Exhibit Number 1 which was taken directly to Sgt. Mike Lusk's residence and released to his custody at 10:35 p.m."

With the filing of the report, it had been done. In its most simplest form, Kenneth Bora had been framed.

It had not required the hazardous action of planting narcotics on the person of the suspect. It had held none of the dangers of confrontation. It was easier than that, and equally believable. All that was necessary was the filing of a false report indicating times and places, quantities and invested dialogues. It was an indictment against the system, showing with what ease the victim can be exploited by any agent of the government wanting to exact some form of vengeance. It was a physical demonstration of the defenseless state of every citizen who can, at any moment of choice, be subjected to the evil existing in the hearts of those who would manipulate the system for the sake of retribution. In its wake, no one would be entitled to the security of knowing that the standards of the law and those

who enforce it would exempt them from such action. Now, it had taken place and with it had come the tragic lesson of the vulnerability of every citizen in the face of those sworn to protect them.

In the police department, there was jubilation. Matthews and Ramsey would solemnly announce that the case on Kenneth Andrew Bora had been made. Target Number One had been secured. Backs were slapped, hands shaken, and praise issued in honor of the occasion.

If the statements of Matthews and Ramsey are to be believed, this scene of celebration becomes sickening to the most conventional mind. The authorities knowledgeable of the events were not celebrating the conclusion of a thorough or successful investigation, rather, were jubilant with the idea that a case of any nature had been filed. These would be the authorities knowing that Kenneth Andrew Bora had been framed and their joy was being expressed over the fact that the frame had taken place and that it would be utilized later to manipulate the judicial system. If the testimony of the narcs that was to be given later was truth, then one finds the nature of their job more offensive than the act itself. It was the culmination of distortions and dishonor, and in that they were finding their jubilation.

This would be the official report leading to Bora's indictment that Kim Ramsey was later to characterize as ". . . the funkiest report I ever wrote."

Indeed, she was right. In the content of the report, it was to claim that Bora, the alleged underworld kingpin, had on his person an ounce of cocaine available to sell to someone he barely knew. Bora had a nodding awareness of Matthews, but by the narc's own admission, the relationship had not reached any personal level. The action was out of character with anyone having the deceptive skills and cautions assigned to Bora's invented character. Still, the glaring allegation went unheeded.

In addition, the reported sale took place on one of the busiest nights in the club in a hallway that would have been virtually overflowing with patrons. It would hardly have been the place Bora would have chosen if he had truly been involved in the sale of narcotics. He had his personal office, complete with a locking door, at his disposal. Yet, the narcs were to claim that Bora casually pulled an ounce of cocaine from his pocket and received \$2,400 in cash from Matthews. Even this doubtful element was

ignored.

The entire scope of the report defied all messages of logic. One must wonder why the narcs did not take more care or caution in preparing the document, making certain that it contained at least elements of information that could be considered credible. The fact that they didn't, however, gives evidence to their claim that they were being pressured to make cases at any cost and the priority of Kenneth Andrew Bora was foremost among their proposed victims.

The final damning bit of evidence gleaned from the counterfeited incident was the "ounce" of cocaine allegedly purchased from Bora. Dutifully, the cocaine was labeled as Exhibit Number One and forwarded to the lab at the Department of Corrections. It was soon revealed that the "ounce" was but 19 grams, significantly short of the 28.3 grams required to make an ounce. Still, the narcs had claimed they paid \$2,400 for the ounce, which would indicate that they had been ripped off, a horrendous act to the pride of any narc. Part of the procedures in a narcotic sale of this quantity would be the weighing of the drugs. This had not been done. Matthews had reportedly accepted Bora's word that it was an ounce.... an act that would never have been done. Still, more was to be revealed in the report from Austin analyzing the cocaine reportedly purchased from Bora for \$2,400. This analysis indicated that the substance forwarded to Austin contained only *eight percent* cocaine! Other lab reports representing other cases indicated that cocaine purchased from dealers such as Brunelli that had been tested and revealed a 70 percent cocaine level!

Anyone gifted with an analytical mind (as most attorneys possess) could have read the portion of the report where the organized crime figure and major dope dealer, Ken Bora, stated, "It's better than any coke you'll find in this goddam Tyler," and compared that statement to the fact that the cocaine he reportedly sold contained only eight percent cocaine. In itself, this should have offered two alternatives; either Bora did not know much about cocaine (if, in fact, he had sold the drugs and was a knowledgeable dealer), or Matthews and Ramsey had cut the cocaine for their own purposes and had turned in the lesser quality drugs, diminished to only eight percent. It would certainly seem a valid question why Bora, reportedly the biggest dealer in Smith County, should have peddled the lowest quality drugs contained within all of the reports placed before

Hunter Brush. Yet, the question did not come, and Kim Ramsey was later to state with astonishment, "That was the funkiest report I've ever written in my life. It was obviously a stash case. I mean, obviously, out front, we stashed on him in the club because Hardy wanted to get the license. He said we needed to close them down they were making too much money in Tyler, Texas."

To be objective, it must be considered that perhaps there was a certain trauma associated with the volume of cases placed on Brush's desk, cases including charges against his own nephew. In that same attempt to be objective, one can conclude that perhaps the District Attorney was not thinking clearly enough to raise questions about the Bora case. Yet, many days passed before official action was taken on the cases. How much time would be required for the trauma to be eased and legitimate questions to arise within an inquiring mind such as that typically possessed by an attorney of such expertise that he had risen to the post of District Attorney? Still, the question was not raised, and the case of the State of Texas vs. Kenneth Andrew Bora was prepared for presentation to the Smith County Grand Jury.

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It began slowly, like the onset of a cancer. Bruce Brunelli was the first to be arrested, charged with offenses contained within a secret indictment issued by the Smith County Grand Jury. His sleek, 1974 Porsche was impounded and placed behind the chain link fence of the Tyler Police Department. The action had occurred so quickly that no one knew what had taken place. Brunelli simply disappeared from the streets of Tyler and his phone rang without answer when frantic addicts placed their calls. As he languished behind the bars of the Smith County jail, warrants were distributed to Tyler policemen, Smith County deputies, constables, Department of Public Service officers. Warrants in massive numbers, requiring expert planning and timing for a guerrilla-type onslaught of services against the dealers and users of the county whose residences sprawled forth into a variety of jurisdictions. A portion of that timing included the plan that Ken Bora would have to be arrested prior to the major fanning out of the officers in their quest to serve warrants. Bora would have to be

behind bars before the rest were taken into custody. As always, the plan was simple. Creig Matthews placed a call to Bora on the morning of April 25, 1979, requesting that they meet in a North Tyler city park, that he had more information to reveal to him. Bora sounded interested and promised to be there as soon as he could. The mechanics of the remainder of the plan to arrest Bora would be later described by Mike Lusk, the former supervisor of Tyler's vice division, who was present at the incident:

Q: Were you present at the arrest of Ken Bora?

A: Yeah, sure was.

Q: Is it true that Lieutenant Adams was some distance away with a rifle?

A: Yes, he was. I believe it was a sniper's rifle.

Q: Why was that?

A: Ah, primarily.....

Q: Was that typical arrest procedure?

A: No, it's not. However, from the information Creig was feeding back to us, and the information that Hardy was putting out, Ken Bora had been seen, or else Hillin, by Creig and he said he carried a .357 in a shoulder holster. Or he had seen it back there in Bora's or Hillin's office.... and because of the rumors or the information we had had about him being a collector and a one-punch man, y'know, the best one-punch man in Vegas...

Q: Would it surprise you to learn that Bora never worked in Vegas?

A: That doesn't surprise me any. Not a bit. But, I'll be honest with you. I felt like he would jump back. Creig insisted that he would. That was the reason why, logistically, we chose that park out there.

Q: Why did they antagonize him so much at the time of his arrest?

A: I would assume to get him to do something.

Q: Is it true that they jerked his hat off and threw it across the parking lot? Or do you remember that?

A: Yes, as a matter of fact, I believe Creig did that, if I'm not mistaken.

Q: Is it true that they pushed him against the car?

A: He was turned around and placed in the position pretty rough, yeah.

Q: Were there any other acts that were antagonistic?

A: Verbal abuse.

Q: Is that normal arrest procedure?

A: No, it's not supposed to be. It's ah.... I'll say this, I've never seen a man as scared as Creig was that day. He was sitting underneath a small tree about this big around....

Q: About three inches?

A: Yeah, and it was probably about ten feet tall and it had a little brick planter around it. He was sitting on it and I was laying down in a car, in the front seat. He said, 'Here he comes. I waited until the conversation had started and Bora got out of the car.... he had lured him out there.... and as I peeked up through the window, I saw Creig holding that gun on him and he was doing this number right here.... (shaking) like that. He advised him he was under arrest and I noticed Bora draw his hand back. This nature like.... he was looking at that gun and looking at his fist and looking back at the gun.... weighing the odds. That's when I spoke to him. I told him to freeze and he looked at me and he looked back at Creig and he looked at me and he looked back and he was still weighing the odds. I started coming out of the car. I believe that one of the patrol units came up and we had them blocking off the exits and they came up and he was pumped up pretty good. There was no brutal force used against him. The best that I can recall, he was never beaten or anything like that....

Q: I'm not asking that, was there....

A: He was antagonized, yes.

Q: Is it your belief that it was done with the hope that he would retaliate so that. . . .

A: Yeah

Q: To force him to retaliate so that Adams could do something?

A: I think that he.... there again, that may have been something

between the Chief and Creig. Because I was never told about it. It just went down. I was never told, 'Hey, do something to him' or anything else. In my own heart, I feel like, y'know, that's like coming up to a guy and saying, 'Hey, buddy, you got a light?' To get him to run his hand in his pocket.

Q: Was Adams the kind who would have shot him?

A: Yeah. Adams is the kind who lives in the past with the Marine Corps and things of this nature. But I believe that Audi⁵⁵ would have dropped him (Bora) had the guy done anything legitimately wrong. If he had jumped bad, I believe Audi would have dropped him. I don't believe Audi would have dropped the hammer on somebody otherwise.... but maybe so.

Q: But, now, if Bora had, let's say, just thrown a punch. Do you think Adams would have nailed him then?

A: Probably not. I think it would probably have to have been something....

Q: Do you think that anyone had a throw-down gun?

A: Ah....

Q: Have you ever thought about it?

A: I hadn't give it much thought. I don't think so. I'm not saying.... let me put it to you this way.... I'm not aware of anybody having none. The possibilities of it are good. They may have had one. I know that I didn't have a throw-down gun. I don't have any idea about Adams. He was perched off over there and Bora thought he had a movie camera.... the scope was so big on that rifle. He made the statement, who's that guy with a camera? But....

Q: But the setup seems odd. Not to have a throw-down somewhere. When you think back, do you agree with that?

A: Yes, I agree with it, however, I feel that in looking back on my frame of mind at the time, to give you the best honest answer that I could.... we were all pumped to the extent that it surprised me that he wasn't carrying a gun. And it surprised me

55 Lusk refers to Lieutenant Adams here by his first name, Audi Adams.

that he didn't go into a nut act. It really did, because of how much Creig had been telling me about him and the bits and pieces we were picking up and what Hardy was dumping on us.

Admittedly, the line of questioning presented to Mike Lusk in this February 1984 interview would send chills up the spine of most attorneys. Few of these queries would ever be permitted within a court of law since they lead the witness and suggest ideas to him that he had not independently formed. But the writer is not a jurist. He is not confined to the system of the courts where structure mandates protocol. Fortunately, the liberalities afforded writers often arrives at greater truths than those permitted by legal procedure, and the attorneys will simply have to bear with the system incorporated here, knowing all the while that they are not privileged with such freedoms.

What is essential to Lusk's statements is an accounting of the events involved in the arrest of Ken Bora. He was lured into the scene of his arrest, was antagonized without cause, was charged with a fraudulent crime, and was subjected to a host of officers that included a sniper resting on a distant hill. Hardly a scene where one would expect a democracy to exist declaring equal protection under its laws!

For Bora, the event was devastating. It would be wise for everyone to pause for a moment and attempt to place themselves in the same situation and to call forth the emotions one would experience in a time when an arrest was taking place for an alleged crime that you *knew* had never occurred.

"Bora continually asked Creig out there, 'What are you talking about? When was I supposed to have sold you cocaine?', Lusk was to recall. "Bora gave me the impression that he thought at the time of the arrest that he was being arrested for delivery *right then*. Which led me to believe that he obviously didn't know nothing about the deal that happened back in March. You know, the one-ounce deal that he was actually being arrested on."

Lusk, as the case report indicated, had received Exhibit Number 1, the ounce of cocaine reportedly sold by Bora back on the night of March 31, 1979. "The best that I can recall, it was right at an ounce," he was to state. "It was trash. Eight percent, I think. Something like that. Which, we were

buying grams at seventy percent, forty percent; you don't buy ounces at eight."

The events of April 25th were so convincing to Lusk that as the squad car pulled away with Kenneth Andrew Bora handcuffed in the rear seat, Lusk turned to Matthews and asked coldly, "Did you stash on that man?" Lusk was to recall that Matthews denied that he had.

With Bora firmly behind bars awaiting a setting of bail, the forces of the joint law enforcement agencies went into full-swing. Out of the darkness, officers rounded up suspects by the score and delivered them to the Smith County Jail. A frantic call from the Smith County jailer awakened Sheriff J.B. Smith who stormed with the sudden knowledge that a drug investigation of major proportions had taken place within the county without his ever being informed. Now, his jail was being flooded with suspects who were uniformly placed in waiting lines for prints, photos and the long booking procedures. The influx was more than his already-swollen jail could accommodate, and the imposition further enraged him. To have conducted a probe of such dimensions without informing him was more than a professional discourtesy, it was an outright violation of the silent code of protocol between law enforcement agencies. Smith cursed silently, and pulled on his clothes before driving angrily to the courthouse.

The scene at the ramp leading downward to the courthouse basement where an elevator was used for transportation to the jail level, was one of vibrant activity and confusion. Young people were herded with their hands handcuffed behind their backs from vehicles from all departments within the law enforcement community city police, sheriffs, state agencies, constables.... Officers tucked paperwork beneath their arms and guided complaining youngsters by their arms toward the iron door where they would push the button to guide them upward to the courthouse floor that was accentuated by barred windows.

On the sixth floor, the suspects stood in long lines whispering to one another. Some heads were bowed in a solemn silence while others held theirs high, glancing about them with a defiant anger. They had been led from the ramp where newsmen had flashed cameras and they had attempted to hide their features behind a protective shoulder: Phones were ringing with anxious parents wanting to know the disposition of

their child's case, what the bail would be, what was the procedure for posting bond, what would be the best thing to do next? Smith reviewed the scene before him and compared it to the thought that there were still officers in the field, searching for more suspects who were identified in unserved warrants. The problem of housing so many prisoners would be magnified with the coming hours as these officers reported with their suspects in custody. To have placed such a burden upon his office without prior notification was inexcusable, he thought, and he slammed the door of his office and punched the numbers on the telephone to reach his chief deputy.

"How big is this thing?" he asked as an introduction. "Big," replied the deputy.

"How many cases?" asked Smith.

The deputy issued a long sigh. "I hear it's over 180 separate indictments."

"How many suspects?"

"Over a hundred," he replied.

Smith muttered, "Damn," and hung up the phone after promising the deputy he would be in touch with him later. The instincts born of his anger urged him to place an irate call to Willie Hardy, but he thought further that he would not honor the man with the knowledge of his wrath. No, he would deal with the situation as best he could, and then wait for the chips to fall.

When his telephone rang, Smith answered with a short, angry, "Yes?" It was Henry Fuller, the owner of Fuller's Restaurant, one of the more popular eating places in Tyler. "J.B., I got word that you have my boy down there," Fuller began.

"Henry, *I* don't have your boy. I don't even know what the hell's going on. I just know there's a long line of kids out there charged with a bunch of drug offenses I know nothing about."

Fuller calmed a bit with the announcement. "Well, look J.B.," he began, "I need to get him out of there. What do I do?"

J.B. felt his rage increasing. "Come on down here, Henry. You'll have to sign a personal note for his bond, and I'll have him released to you." Smith considered his comments after they were made. Was that the thing that he should be doing? Was it in line with the law? But he thought more

of Willie Hardy and finally determined that it was exactly what he should do.

"How much is his bond?" Fuller was asking.

Smith shuffled through the booking papers before him, locating the name of Henry "Toby" Fuller, Jr. "Thirty thousand dollars, Henry. Ten thousand for each count."

Fuller issued a silent curse and promised to be down within minutes. Smith called the jailer and inquired if Toby Fuller had been booked. He had. "Break him off the chain," he instructed, "and bring him to my office."

For Toby Fuller, it had been a day of continued trauma, beginning with the most peaceful of activities. He had been fishing. He had gotten up early and had driven to a private lake south of Tyler. He had had luck and had decided to gather up his gear and return to Tyler. Rather than go directly to his apartment, he stopped at his father's restaurant where he was employed. He had no sooner entered the door when one of the waitresses excitedly informed him that the police had been there earlier looking for him. He felt his pulse accelerate and he left the restaurant quickly, driving to his apartment. The scene was repeated when two young girls living in the apartment next to him rushed to his side and excitedly related how the Tyler city police had been knocking at his door and asking questions of neighbors. Rushing inside the apartment, he called his best friend, Bill McCain. The voice at the other end of the telephone sadly informed him that Bill had been arrested. "I knew right then that something was wrong," Fuller was to later recall. He knew of nothing else to do. He dialed the number of the Tyler Police Department and provided them with information of his whereabouts. The officer answering the phone asked him to hold and returned shortly to advise him that as far as he knew, no one was looking for him. Now, he breathed easier. "Well, if they are looking for me, tell them I'm at home," he informed the policeman, and calmly disrobed and took a quick shower. Once he was refreshed, Toby Fuller decided to sit on the front porch of his apartment to collect his thoughts, to attempt to reason all that had happened during that day of his absence. He had not been there long when the police arrived, three officers approaching from three sides. They wore bulletproof vests and one of them waved a sawed-off shotgun. Another bran-

dished a machine gun with a clip protruding from it. Toby Fuller, the young man that no one was looking for, was taken into custody and transported to the Smith County jail where he was placed in a line where each suspect's wrists were handcuffed to the person in front and behind them. It was a moment of salvation when J.B. Smith's orders were executed and Toby Fuller was removed from the line of suspects.

Fuller's case was unique in one particular aspect. He had been the close friend of Bill McCain, the nephew of Smith County District Attorney, Hunter Brush. If Fuller was to face conviction, then the future of Brush's nephew would be placed in equal jeopardy. What recourse then, could the District Attorney exercise to remove his nephew from the shadow of conviction? It was, of course, within his power to grant immunity in return for information.

"We had a meeting with Mike Lusk and Hunter Brush in my attorney's office and it was supposed to have been a private meeting," Toby Fuller was to later recount. "Nothing was to be said outside of that room to anybody whatsoever. Hunter Brush was asking questions about me and Bill (McCain). I told him everything."

". . . But after the meeting was over.... during the meeting, first, they asked me if I would work for them. Law enforcement. Mike Lusk did. They wanted me to be an informant, and I told them there was no way. But then, after the meeting, Hunter Brush went to Bill McCain and told him everything I had told him in the closed-door meeting and asked him everything about it, and ever since then, Bill McCain has not talked to me."

If the sworn statements of Toby Fuller are correct, they imply specifically that an attempt was made to convert him into an informer. An informant whose information would hardly seem viable in the light of the fact that the cases had been "made" by Matthews and Ramsey. If these cases were solid enough to have been presented to the grand jury, the need for an additional informant would seem minimal at least. Had Fuller agreed, however, the door would have been open for official immunity to have been granted to him under the auspices of the District Attorney's office. and that same immunity could have been extended to Bill McCain, assuming that he, too, would be offered a similar deal and would agree to it. By this route, the immunity would have removed the nephew of the

District Attorney from the ranks of the suspects; but this is nothing more than speculation drawn from the testimony of Fuller. Still, one must question why the proposal of being an informant was offered to Fuller in the first place? Fuller did not know Bruce Brunelli, he did not know most of the people deeply involved in the county's drug culture. "The only ones I ever knew were the ones I went to school with and high school." His contact with the culture was minimal, at best. His value as an informant is validly held to question, yet his statement remains that such an offer was submitted to him. The motives for this offer remain to speculation.

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Cherie Paro had heard voices in the living room of the apartment. She identified them as angry voices, loud voices, voices filled with anguish. She could detect the tone of fear within Steve's comments as they filtered through the wall into the bedroom where she sat cowering upon the bed. Her experience with the drug community led her to suspect exactly what was taking place. It was obvious that there were several people in the next room. Angry people. Mentally, she inventoried their possessions within the apartment. There was a treasure of stolen merchandise. They had a small supply of drugs, at least, small by their standards but large by the levels known to other users throughout the area. They had some cash. There were shotguns, silver, coin collections, jewelry.... all netted from an Easter Sunday escapade that found them burglarizing six homes in the affluent part of town. The apartment stored other merchandise from other weekends.... stereos, televisions, items gathered quickly that could be converted into cash by any one of the many fences in Dallas. Yes, she reasoned fearfully, there was no question of what was taking place. Some of the "heavies" of the drug culture had learned of their treasury. They had knocked at the door and Steve had answered it innocently. Now, they were threatening him. They were gathering their collected wealth. It was a rip-off conducted by their peers. With a trembling lip, she raised her eyes to the ceiling and issued a silent prayer that they would not come into the bedroom. That they would not discover her there.

The voices became louder and she could hear Steve cursing. Oh, God, she thought, just give it all to them. Give it to them and let them

go away!

As the bedroom door exploded beneath the heel of an intruder, Cherie Paro screamed with fear and urinated with the shock of the sudden violence. She closed her eyes, hearing the clicking of the light being turned on. Sobs violated her will to control them, and at last, she opened her eyes with the sound of Jim Meyers' voice. "Look what we have here!"

"Oh, God, Jimmy!" she moaned with terror. "What are you doing with that gun?" Her eyes widened with the sight of the pistol dangling from his hand. "Just take everything, Jimmy, and leave us alone!"

Creig Matthews smiled with the thought that even now, Cherie would call him Jimmy... Jim Meyers.... never suspecting that the intrusion was more than a rip off.

"Not you. . . ." she moaned.

"It's all over, Cherie," he informed her. "You're under arrest."

"Arrest?" she gasped. "Arrest? What are you talking about?" Her eyes darted through the open door to see uniformed officers moving about in the adjacent room. "What's happening?"

"I'm the heat, Baby," he told her.

"No," she moaned again.

"The heat."

"Jimmy. . . ."

Matthews moved quickly to the side of the bed, placing his hand over her mouth, stilling the protests that were to come. "You listen to me now," he commanded, slowly raising the barrel of the pistol to her temple. "We're going to be making some calls now. We're going to be calling some of our old friends. We're going to tell them about the big party we're having up here. A big party at Steve's place. We're gonna' pick them off like flies when they show up at the door. And you're going to sit right here and keep your mouth shut until we get time to take you downtown, you got that?"

Cherie felt the pressure of the weapon being pressed against her temple and she shuddered with the convulsions of her sobs. As he slowly removed his hand from her mouth, he reminded her again to be silent.

"Just leave me alone, please, Jim," she offered softly, her voice breaking with anguish. "I've pissed my pants and everything. Just leave me alone, please."

He stood and moved to the door, his shadow falling over her small frame huddling upon the bed. With a motion of his hand, he beckoned someone from the other room and departed. It was as if he had been replaced. Now, Karen Brooks (Kim Ramsey) stood in the lighted doorway, her hands filled with notebooks where she had been jotting information for future references.

"Karen...." Cherie moaned.

Put your hands behind you and turn around here," Kim commanded. "Oh, God, Karen, don't do this! You're my friend!"

"I'm a narc, honey," Kim Ramsey advised her. "Narcs don't have friends."

"No," Cherie insisted, feeling Kim's hand guide her in her movements and the placement of the handcuffs upon her with the clattering of the jaws moving across the ratchet. "No," she persisted mournfully, "you are my friend!"

Kim Ramsey glared into Cherie's face. "I'm not Karen Brooks, Cherie. I'm a narcotics officer. You're being charged with narcotics violations. I am not your friend."

Cherie sat in the darkness of the bedroom, watching familiar faces enter the room as Jim Meyers opened the door. "Hey, Jim!" they would offer as warm greetings, extending their hand in friendship. The affable Meyers would reply only with a closing of the door and a call, "Okay!" With that, the room would be filled with officers emerging from behind the closed door of the kitchen and the traumatic scene of the arrests would be repeated again before her eyes. Some submitted silently, stoically, turning to the posture demanded for the search and the placement of the handcuffs. Others would curse Jim Meyers, questioning his parentage and listing him as the lowest of all life forms. Regardless of their reactions, the result was always the same.... the arrests were made and the stream of undercover units made their slow migration to the Smith County Jail.

At last, Karen came to lead Cherie from the room. She took her arm and led her to a standing position. In the living room, she could see Steve McGill cast a frantic glance in her direction. "It's time to go now," said Karen.

"I've pissed my pants," Cherie advised her.

"It's still time to go," said the woman narc. "No one will notice."

At the Smith County Electric Company, the only Tyler club attracting the area's youth that was not under the control of Bora and Hillin, the police moved in with the flair of a guerrilla movement. Familiar faces were detected and the people moved onto the parking lot. Questions were asked of the whereabouts of those not found among the suspects. Drinks were spilled as suspects darted into the restrooms or sought back exits. It was a scene being duplicated at the Point 21 Club and Anothre Place. Residences were disturbed by the nocturnal knocking of officers asking if a suspect was at home. Lights flared against the night and frantic parents asked endless questions about the nature of the inquiries. Places of employment were visited and suspects taken from the routine of their work. Workers at the Smith County Welfare Office were buried under the massive number of requests for care to be provided the children of suspects who were now behind bars. Volunteers were gathered to take the children into their homes until some disposition could be made of their parent's plight. Users who had never been detected by Matthews or Ramsey frantically loaded the trunks of their cars by night and fled into the darkness for destinations unknown.

In the midst of this clandestine activity, one of the most intriguing cases ever recorded in the annals of law enforcement took place. It came at a time when most of the indictments had been served and the identification of the suspects was widely known. Still, there was the understandable fear within the drug community that more arrests could be forthcoming, that the extensive list of suspects had not yet been completed. No one knew when they would be next, when a knock at their door would reveal policemen armed with a warrant for their arrest. It was a fear that drew the suspects more closely together, forming a bond of unity where they could discuss the many discrepancies within their charges and share their common contempt for the treacherous narcs who had invaded their domain. The parties were now more guarded, no one trusting the other. Still, they knew, there was a need to trust someone, for without them, there would be no outlet for the rage that boiled within

them. The gatherings still engaged in narcotics, but not with the open disregard that had existed prior to the bust. Now, the meetings were kept within a closely-knit group of associates having known each other for long periods of time, and their discussions were conducted in whispers, always about the same topic. If they were to snort coke, it would be done quickly and the evidence flushed down the commode as soon as possible. Never would there be the open, flagrant assumption that anyone was above suspicion. It was different now, and everyone involved in such gatherings were different by necessity.

The event had innocent beginnings. Paul Woodward, the young man who had reportedly been placed near the top of the mystical "hit list" had been dating Patricia Ann Dohnalik regularly. He was not the most ardent of admirers. Often his temper would flare and he would become abusive and their relationship would be temporarily shattered. Soon, however, they would be seen together again and it was believed that all was well between them. The young woman was scheduled to depart for college in Austin soon, and it was known that with her absence, it would probably be the end of the relationship altogether. But Woodward was persistent. If he was truly abusive, he would make amends and rekindle their affair quickly, for he was also jealous and didn't want the woman to be fair game too long.

With the passing of the months, Patricia was to leave Tyler for Austin and it was the common belief that this was the final chapter of her relationship with Paul Woodward. No one thought much of it, for it was well known that she had planned to leave for some time. In confidence, Patricia had told friends that she was leaving to escape the wrath of Woodward, whom she had jilted after a violent argument. Woodward had retaliated by slashing the tires of her car and she had testified against him in the criminal mischief hearing that centered around that event. Now, Woodward was openly hostile, even threatening those friends who had helped Patricia move out of Woodward's apartment, stating that they had no right to interfere in such domestic affairs.

Two days before the criminal mischief trial, Patricia Ann Dohnalik was shot to death by Woodward as she answered his knock at her front door in an Austin apartment complex.

All of this, however, is but background for the real mystery. The con-

ditions leading to a happening that would challenge anything appearing in the works of Agatha Christie or Alfred Hitchcock. The background scenario would include the fact that Paul Woodward had purchased a silver Corvette from a salesman by the name of Kallan Monigold. It was during this transaction that Kallan was to meet Patricia Dohnalik and it was later, when Woodward was showering his abuse upon the woman at a Tyler nightclub that Kallan would step forward and offer his assistance. To the hapless woman, Monigold must have seen a shining knight opposing the dragon of Woodward's anger. He had rescued her from the dungeon's of Woodward's tirades, and from that a relationship was founded that Woodward had long feared. She was now seeing Monigold, and Woodward didn't appreciate the turn of events. Monigold was on the fringes of the drug culture.... one of the recreational users who sniffed occasionally, but never stepped fully into its realm of deep or regular usage. His brother, Phillip, would later be indicted for drug charges, and Kallan was then assigned to those fearful few who dreaded each day, always wondering if their name would be next to appear before the grand jury. Even when it appeared that the legal dust had settled and the drug bust had been completed, he was among those who still felt the gnawing apprehension, the seemingly endless fear.

What happened on the night of June 17, 1979, is perhaps best described by Ken Monigold, a brother of Kallan, in a letter written on July 31, 1979 to Detective Salvatore Lubertazzi of the Nutley, New Jersey Police Department. Ken Monigold had written to the detective in an attempt to locate the famed psychic, Mrs. Dorothy Allison.

"...My brother, Barre Kallan Monigold, disappeared from the parking lot of an apartment complex here in Tyler at approximately 1:30 a.m., Sunday morning, June 17, 1979. Kallan had a date that night with Patricia Dohnalik that night, and they were both napping in the living room of the apartment of a very good friend, Keith Lowe, when Keith and his date, Candy Connell, returned to the apartment at approximately 1:15 a.m. When going up to his apartment on the second floor, Keith noted that Kallan's dome light was on in the demonstrator he was driving. (Kallan is a new car salesman for King Chevrolet in Tyler, Texas, and was driving a new Monte Carlo). Since this vehicle is equipped with a new feature which causes the dome light to remain on for approximately 15-20

seconds after leaving the car, Keith assumed that Kallan had arrived only seconds before him. However, upon entering the apartment and finding Kallan and Patricia asleep, Keith woke Kallan and told him his dome light was on. Kallan then walked into the kitchen and looked out of the window, where he could see the light inside his car. The car was parked approximately 30-40 feet from the window. Without saying anything, Kallan then went out of the door and down to his car, and has not been seen since. During this time, Keith was mixing drinks in the kitchen, which overlooked Kallan's car and the well-lit parking lot, and he heard no unusual noises. In about five minutes, he went out onto the porch/balcony and, seeing Kallan's car still there, called out for Kallan, but with no response. The driver's door was found unlocked, and there was no evidence of violence....."

In the weeks that followed, an assortment of law enforcement agencies were to investigate the mysterious disappearance of Kallan Monigold. It was learned that he had left all of his clothing within his apartment. He had left money in the bank. All of his personal belongings remained behind him. Rumors and false reports emerged from witnesses claiming to have seen Monigold being forced into a vehicle on that night, but none of them were substantiated. Kallan was, incidentally, a better-than-average student of karate. A man was to come forward with a confession of having killed Monigold, dismembering his body and tossing it from a light plane over the Gulf of Mexico. The confessor was later proven to have lied, however, and investigators were unable to blend known facts into the man's tale. A host of claimants firmly maintained that Monigold had been murdered by Paul Woodward and that his body was secreted beneath the foundation of one of the newly constructed homes on the shores of Lake Tyler where Woodward had been operating as a builder. The accumulation of all such allegations resulted in absolutely nothing. With claims of budget limitations, law enforcement people were never to x-ray or use heat sensors to probe the foundations of the homes where the remains of Kallan Monigold may have their final resting place.

It was in January of 1984 that the research of this book had reached the attention of many people. A vast number of former drug defendants had been interviewed, as well as former police officers and those within other agencies of the law. The question of Kallan Monigold always

emerged within these discussions and the result was constant.... no one knew what had happened to the likable young man who had vanished on that mysterious night.

By this time, long, arduous hours were being spent compiling the information received from these interviews. They were categorized and compared to other bits of testimony. The scenario of the investigation and the subsequent drug bust was beginning to unfold and while there was much work remaining to be done, it was a time of diligent work requiring late hour efforts. It was in the early morning hours that the telephone rang and the voice offered no salutation, only, "Do you have a pencil handy?" "Yeah," I replied, "who is this?"

"Never mind, just jot this down."

I replied cautiously, "Okay, go ahead."

"If you want to find Kallan Monigold, try this number. 809-953-2485. Have you got that?"

"I got it," I replied. "Where is he?"

"He's working at the number I just gave you."

Having a suspicious mind, I continued the questioning, finding myself recalling the tales spun from "All The President's Men," and the frequent contacts made by "Deep Throat." "Why should I believe you?" I asked.

The voice chuckled for a moment. "Because if I had had any sense, I'd be with Kallan right now."

My curiosity was stirred. "How is that? What happened?"

"We had planned for him to go first and then I would join him. I just couldn't ever get enough bucks together to do it."

A silence dwelled between us for a moment. "Is there anything else you want to tell me?"

"Just call and you'll find out for yourself," he offered, and hung up. Such calls are not unusual to a writer working on a sensitive topic. There are always those who would rather not be identified who for some reason want to relate information anonymously. Others purposely mislead you, for motives of their own. It is never possible to determine the difference, but each scrap of information is worthy of pursuit.

Within seconds, I had dialed the Operator and asked where area code 809 was located. She informed me, "Montego Bay, Jamaica." Hastily, I dialed the number given to me and waited impatiently until a woman's

voice responded, "Holiday Inn." I hung up.

Ironically, I had some friends who had made long, elaborate plans to visit Jamaica within a matter of days after I had received the call. I met with them, requesting that while they were there, they would call the telephone number and inquire about a young American working there. It seemed like an eternity before they returned. I listened to their lengthy accounts of the splendor of the island and of the peace and beauty encompassing it. Finally, I asked, "Did you make the call?"

"Oh, yeah," replied the man. "I called and it was the Holiday Inn. It was the bar, I think. I asked if there was a guy working there named Kallan and the man asked me to wait a minute, he'd get him. I didn't know what to say to him if he answered, so I hung up."

Within hours, I armed myself with a photo (a very poor photo, indeed) of Kallan Monigold and booked passage to Montego Bay, Jamaica. It was a journey resembling the gambler who places his final chips on the number offering the highest return. I had traveled to Washington, D.C. only weeks before to meet with the staff of "20-20" and other trips to visit with Ken Bora, defendants, and former policemen across the country had boosted the cost of my research to unexpected levels. The trip to Jamaica would make the writing of "Smith County Justice" even more exorbitant.

Jamaica is a strange place. It's inhabitants are 90 percent black, perhaps more. There is a racial fraternity existing there wherein the whites are typically tourists offering the bulk of the small nation's income, but are never truly accepted within their inner circles. The "Come Back to Jamaica" advertisements on television are extremely accurate. There is an all-out effort to please the tourist from the moment he walks pass the minstrel in the air terminal singing the "Come Back to Jamaica" song to the checking in process at the hotel. Even so, as it seems with all temperate nations, there is always that inherent error that scars a visit. People living in tropic zones do not have the attentiveness to detail as known to those residing farther to the north. An error is a minor event, unworthy of true concern. The fact that my hotel did not have my reservation was an event of little consequence. The additional fact that they did not have an available room was of even less significance. Only the Caucasian owner of the hotel, a character stepping from the pages of a Michener novel con-

suming a case of beer daily, seemed to be at all concerned about my plight. He politely informed me that he owned yet another hotel and would gladly provide me with transport in his personal car to his sister establishment. I accepted as graciously as I could.

The trek to the other hotel seemed endless. We wound through villages and goat herds in the small vehicle driving in British style on the "wrong" side of the highway. Skilled in local driving techniques, the proprietor of the hotel used his horn far more often than his brakes, and the sight of the magnificent hotel beside the sea was indeed a welcome one to my frantic eyes. "This is it," he announced. The white buildings stood against the dark skies and the swimming pool glistened luxuriously, offering a bar that ran through the pool with stools suspended from ropes where a swimmer could enjoy a drink without leaving the water. All of this at a rate that would be about half that one would pay at the Holiday Inn in America.

The following morning, I began my inquiries and soon learned one of the idiosyncrasies of the Jamaican people. They are always responsive to inquiries. In their quest to be of service, they gladly answer any question, whether they *know* the answer or not! The experience leading to this discovery is now delightful to recall, but was frustrating indeed when it happened! I had spent the day making inquiries about the village of Ocho Rios, near many of the tourist hotels where Monigold might be known if he truly had fled to Jamaica. Always, the cordial citizens nodded politely. Yes, they knew such a man....

By the time I had gathered this supporting evidence, it was night. I now was filled with confidence when I called for a taxi and asked to be taken to the Holiday Inn. Again, the hazardous journey was repeated and the driver swung into the driveway of the hotel so quickly that I didn't have the opportunity to read the sign in front of it. I asked him to wait for me and, always agreeable, he nodded.

Inside the hotel, I was impressed with the luxury offered by a Holiday Inn. I scanned the menu upon arriving in the dining room and was even more impressed with the wide variety of cuisine and the prices that now resembled those found in the United States. For a while, I simply enjoyed a drink, ever vigilant of those employed by the hotel, hoping to spy a young, white man among them. I listened to the jerky beat of a Calypso

tune and noted that an hour had passed. It was apparent that another approach would have to be taken.

When my waiter revisited my table, complete with a gold-glistening grin, I shoved a five-dollar bill into his palm and said seriously, "I'm looking for someone. A white man. Young. American. He's supposed to be working here."

"Yes?" the man said, broadening his smile. "Do you know him?"

"Yes, mahn," he nodded quickly. "There was such a mahn. He worked here once. He doesn't work here any more."

"Where is he now?" I asked eagerly.

"I will ask and come back to you," he promised.

Within minutes, he stood at a distant door, beckoning me to join him. Was I now to meet face-to-face with the elusive Kallan Monigold? I rushed to the waiter who informed me that he had asked the Maitre d' who perhaps would have more information for me. Soon, a tall black man in a tuxedo moved gracefully toward me. "Yessir, may I be of assistance?" he politely inquired.

Again, I repeated my quest and the man twisted his mouth in thought. "No, sir, I do not recall such a man."

"Are you certain?" I persisted. "I had information that he was working here at the Holiday Inn."

Suddenly, the man widened his smile. "Oh, sir, but the Holiday Inn is next door to this hotel. This is Rose Hall!"

Rose Hall is among the most luxurious hotels on the island, and the errant taxi driver had delivered me to the wrong place! Even here, there were cooperative islanders willing to support the idea that a young white worker was among them! Such is the nature of Jamaicans and their zeal to always be agreeable.

Once at the Holiday Inn, the information was strangely repeated. Yes, such a young man was remembered. No, he did not work at the Holiday Inn any longer. There was only one American working at the hotel now.

My idea about the credibility of Jamaicans had now sunk to the level of acceptance and I firmly stated that I was going to order a meal and sit at the table until the "one American working at the hotel" was brought to me.

My meal was delivered and consumed. I ordered a drink. Another. Still the American had not arrived. I repeated my vow to remain at the table until I had the opportunity to see him. By their accounts, this American was an official of the hotel, the Food Manager. Whatever he was, I insisted, I wanted to see him. Yes, they complied, we will call his room and ask him to comedown.

Within a few minutes, a middle-aged man attired neatly in a brown suit approached my table, extending his hand. "I'm Deiter Fischer," he informed me. "I understand you want to talk to me." Surely the polite Mr. Fischer envisioned an irate patron complaining about the quality of food. In that instant, my heart sunk. Fischer was not the youthful American I sought. I quickly explained to him the reasons for his being disturbed and offered my apologies. He cordially accepted them and gave me a brief background of his life that had led him to the islands. He was from Miami, he informed me. New York before that. I snapped a couple of photos of him with his permission, and excused myself to return to the waiting taxi.

That night, lying in bed, I wondered if the trial of Kallan Monigold had truly ended in some cold slab of concrete on the shores of Lake Tyler. I wondered why I was watching the oval moon beyond the window and listening to the endless murmurings of the surf. But something troubled me. Something disturbed my instincts about the man known as Deiter Fischer. Yes, that was it. . . . Deiter. Deiter was not a common American name. Yet, it was common in Canada. A small thing, but it disturbed me nonetheless.

However erratic my taxi driver may have been, he had one glowing quality. Having the illustrious name of Barrington Shand, he was an employee of the Jamaican Government who had taken a leave of absence from his post to start the enterprise of operating a taxi service in Ocho Rios. With the morning, I asked him about the stranger Deiter Fischer. "There is something you must remember on the island, mahn," he stated. "The black people have their own, and the white people protect each other. Your Mr. Fischer may have known more than he was willing to tell to someone who would someday write a book about it."

Barrington advised me to call the Jamaican Port Authority and inquire as to the national origin of Mr. Fischer. It took a very long while before the polite clerk stated, "Yessir, I've found his entry application. He is from

Canada."

Why had Fischer misled me? Could Barrington Shand be right? Could it be that the white population of Jamaica had formed an alliance of mutual protection where no question would be entertained honestly? I wondered.

It was obvious, supported by Barrington, that the only valid information was to be gathered from the blacks themselves. No matter how they might mislead one in the quest for information, the basis of truth would be found only within their realm. It would be better, however, if a black inquired of them, rather than an intruding white tourist. Barrington made the inquiries for me.

"Come," he said that afternoon, "there is something you must see." As he wound his taxi through the serpentine roads of Jamaica, Barrington was to relate a tale of alarming proportions. This time, it was a tale passed on from peer to peer, not as a subservient Jamaican to a tourist who could possibly have a five spot resting in his pocket. It was indeed a tale of a young white American youth who had arrived on the scene some months before, no one could remember exactly when. He had worked at a hotel in the Montego Bay area and had been fired in a dispute with the manager over some steaks that were missing from the hotel freezer.... steaks that were the private stock of the owner. From there, the young man had attempted to gain employment at other hotels, but the stigma of his past experience could not be shaken. Always, through the island network of information, the hotel managers know of the missing steaks and would shake their heads slowly, no, there was no work for him there. For a while, he was seen in the driveways of some of the tourist hotels, peddling match boxes of "ganja", the native title for marijuana. In Jamaica, incidentally, drugs flow like water. There is little control or concern over the sale or usage of drugs and such an enterprise would have attracted little attention from local law enforcement. One can readily purchase drugs of any type and use them with minimal risk, but *never* try to bring the drugs back to the United States. American custom authorities recognize that Jamaica is a narcotics hot spot and utilize sophisticated electronic gear to detect those carrying drugs on their person and use sniffer dogs on passenger luggage before it is sent up on the rotating ramps for the tourists to claim them. On my return trip back to Texas, two passengers were apprehended

while attempting to bring drugs back to the U.S.

Tony Kay, the Damon Runyan character who owned the hotel where I was lodged, related that he recalled seeing the American selling ganja to the tourists alighting from the squat mini-buses that transported them from the airport at Montego Bay: He added that it was obvious that the young man did not have the kind of resources to pay off local officials and that his career in ganja-pushing would be short-lived. While law enforcement on the islands is relatively lax in monitoring drugs, it does expect to be repaid for their oversights. Only days before my arrival, a group of ganja growers had been hacked to death with machetes in a marijuana field not far from where I stayed. Such revelations, however, should not distract the legitimate traveler from visiting Jamaica. It is a paradise worthy of anyone's visit, and only those wanting to exploit the general disregard for narcotic laws should be wary. For those wanting to experience the wealth of available drugs in Jamaica, it should be noted that local rumors maintained that the ganja growers had been hacked to death by lawmen.

If one is to draw any conclusion from the tale being unfolded by the taxi driver, it would be that Tony Kay was right and the young American soon discarded his marijuana business. At least, he was no longer seen peddling his match box stashes to tourists. It was recalled that the young man spoke with a distinct drawl that he was never able to dismiss, and for that reason, he was known to many throughout the region as simply, "Tex."

As one travels the road from Ocho Rios to Montego Bay, he encounters many roadside establishments with open pits where charcoal smolders beneath the tropic sun. On these pits are simmering concoctions of beef that are absolutely delectable as long as one never inquires about the recipe. The meat is marinated in the blood of the animal for long hours prior to its cooking and the blood becomes an integral portion of the magnificent flavor. Being of sound stomach, I found little problem with this knowledge, but other tourists avoided the product with nauseous expressions. The road is also marked with a scattering of "straw markets," roadside stands where mats, hats, and purses constructed of native straw are hawked at attractive prices. It was into one such straw market that the driver finally squealed his taxi to a halt.

"I would get my camera, sir," offered Barrington. "Pretend that you

are taking photos of the straw market, but in the corner over there, you will find the place where the American last worked. And, Mahn, I would be careful that no one saw you taking photos of it."

Beyond the row of shambled stalls where straw products were marketed, a small building constructed of planks stood half-hidden. Yellow and white stripes decorated the structure, running vertically beneath a flat roof. Two windows opened to form a counter where barbecue sandwiches were offered and cool drinks were available to casual shoppers. A muscular black man leaned against the counter, gazing dreamily across the marketplace. The sign over the stand read, "TEXAN'S COOL SPOT."

I smiled with the sight, as if it were a true discovery. "Texas," I muttered.

"Yes, Mahn," said Barrington softly, "this is the place he opened and the people say it is the same man you seek."

Following Barrington's advice, I snapped photos quickly, making it seem as though the stand was but a background for some other point of interest. No one seemed to notice.

"I've got to ask the man some questions," I advised Barrington. "The man behind the counter."

Barrington nodded slowly. "You do that, Mahn. I'll wait around the corner."

The man smiled broadly with my approach, his teeth glistening against his black skin. "What may I serve you, sir?" he asked.

"Red Stripe," I replied, the name of the local beer. Once it was delivered and I had offered payment, I glanced noticeably at the sign and smiled. "That's a strange name for a place here," I observed. "Texas. Who's the Texan?"

The man gazed at me for a long moment. In that time, I was very thankful for the many times that Texans had teased me about my Yankee accent. He would not detect that I, too, was a Texan seeking someone on his domain. "Oh, him," he stated coldly, "he used to own this place."

"A man from Texas?" "Yes, Mahn."

"What happened to him?"

The black man broadened his smile. "That I do not know, Mahn. I

run the place now. He won't need it any more."

I was never able to dislodge from the new proprietor any further information.

That night, I sat at the bar of the hotel, watching Tony Kay pour another beer. He could sit before the bar for hours, drinking beer after beer, sometimes twenty at a time. I related the tale to him, seeking his insights about the mysterious Texan and what could have happened to him.

"The best chance is that he learned that someone was asking about him," he confided. "I don't know anything about the barbecue stand. I really don't," he assured me. "But I do know the people around here. I would say that he's up in the hills now, waiting for you to take a plane out of here. When you're gone, he'll be back selling barbecue sandwiches and beer. That's just the way it is around here. There's no secrets."

The supposition was not beyond belief. One could retreat into the hills of Jamaica and easily live off the land. It would be even comfortable to sleep outdoors at night, the temperature huddling always around the mid-70s to the low-80s. There was an abundance of bananas, fish in a multitude of lakes, exotic fruit always available. No, it was not beyond belief that the young American could have sought refuge within the wilds.

"What do you think?" I asked of Kay. "Do you think I've found the man I'm looking for, or is it all a chain of coincidences?"

Kay shrugged. "If it was me who had done the looking, I would feel pretty confident."

Somehow, I didn't. In that moment, I felt that I had come closer to revealing the truth of the Monigold mystery than had any law enforcement agency, but that wasn't enough. I still hadn't met the young American. I still hadn't been able to speak to him in open confrontation. I still hadn't compared his face to the photograph in my pocket. I had done nothing more than establish yet another tale to be added to the mystery of Kallan Monigold.

Even so, after returning to Texas, I was able to reflect upon the experience with some objectivity. Monigold was among those who feared that his name could be next on the list of indictments. His brother had already been named upon that list. He was deeply attached to his family,

and perhaps didn't want to bring further shame to them. Jamaica offered a ready supply of drugs, and if he was involved in the drug culture, to any degree, Jamaica would offer an ideal refuge. Yes, there were positive factors to be considered.

There were also facts that would disclaim the theory of Monigold fleeing to Jamaica. His close bonds with his family would certainly have prompted him to write a letter to them at some point, yet the Monigolds maintain that they have never heard from him. Mr. Monigold was to sadly relate, "We've finally resigned ourselves to the fact that Kallan's dead." In their mind, Kallan was the victim of Paul Woodward's jealousy, and he was executed for his infringements on Woodward's romantic life on that night he disappeared from the apartment. If there is anything else known to the Monigolds, it has been kept among the family skeletons. Toby Fuller was to later relate, "I talked to Phillip Monigold when he came in our restaurant. He seemed to be awful upset about it (Kallan's disappearance), but other times when you talked to him about it, he didn't seem to be too upset about it." Again, opinions and suppositions.....

Among the elements that can be documented are the statements given by those drug defendants who had been sentenced to serve time in the same penitentiary unit as housed Paul Woodward. They would relate how Woodward often inquired if anything had been learned of Monigold's whereabouts, or if they had any ideas of what might have really happened. They would testify that Woodward expressed a concern that appeared to be legitimate, and left the prison with the firm belief that Paul Woodward had played no part in Monigold's mysterious absence.

In a final weighing of the facts, it is most probable that the posture taken by Mr. Monigold is absolutely right. It is wise to have finally become resigned to the idea that Kallan is dead. The surrounding facts of the youth's disappearance bears every indication that an act of final violence did, in fact, take place. One does not discard every shred of his past. One does not abandon ready funds in the bank. No, it is better to be further resigned to the concept that the disappearance of Kallan Monigold reigns as one of the great mysteries of the region, and adds but another dimension and tale to the period of the investigation that was to represent Smith County justice.

Throughout the investigation, Kim Ramsey had been provided with a rental car that would not only provide her with transportation, but would give her ample cover. The license number could be traced only to the rental agency and the vehicle had been contracted in her name. It was a dead end for anyone wanting to seek out her true identity, and in the beginning, she had been pleased with the 1978 Oldsmobile. As the probe deepened, however, the auto had become as much a victim as anyone it had transported. Marijuana seed burns were evident on the upholstery of the seats. The grille of the car had been damaged. The motor now groaned and sputtered, straining with the very thought of moving forward.

It had become apparent that something had to be done about the condition of the vehicle, and Kim returned it to the lessor for repairs. The work was done quickly, but certainly not to Kim and Creig's satisfaction. They complained that the car still ran uneasily, stalling at times when accelerated. It was difficult to start. Again, the car was taken in for adjustments and was returned, they maintained, much in the same condition.

As if the complaints about the car's repairs had not been enough, Kim learned that Willie Hardy was reneging on a prior agreement to pay her nine cents a mile for the period in which the car had been used in the drug probe. Kim had piled up nearly 8,000 miles on the car during the investigation and she could quickly compute that to mean that Hardy was ripping her off for \$720.00. As always, Hardy had upset them, and as always, they used cocaine as the balm for their anger. In the midst of his stupor, Creig felt his anger mounting and declared, "If the sonuvabitch isn't going to pay us for the car, then why the hell don't we just burn it up and collect the damned insurance?"

The vehicle wasn't theirs, of course, but they could claim a loss of personal property within the car, making them joint benefactors of an insurance claim. Yes, it seemed like a good idea.

Creig was admittedly not an expert arsonist. He knew the fundamentals, but that would not be enough to counter the state of confusion brought about by the influence of cocaine. He was not totally rational, in the classic sense, and did not reason well. Yes, he knew what he was doing. He had reached the conclusion to do it much the same as would

any person operating normally. He set about to complete the task with a reasonable resolve. Still, there is a strange effect within cocaine that keeps one from functioning with full faculties. He pulled a "Handi Wipe" from a box and laid it to one side. Carefully, he poured gasoline into a Dr. Pepper bottle. Once that had been completed, he stuffed the Handi Wipe into the mouth of the bottle, forming what he believed to be a reasonably good replica of a Molotov Cocktail. All that now remained was to place the container on the vehicle and light it. It would be simple, and within hours, they would be filing an insurance claim and beating Hardy at his own game. If anyone questioned the blaze, certainly everyone would believe that any one of the drug defendants had retaliated in such a manner. The protective armor of the narc was still intact, and it was unassailable, in Matthews' mind.

The blue 1978 Oldsmobile, 2-door, sat in the parking lot and luckily, there were no other cars in the parking places on either side. A stroke of good fortune, reasoned Matthews, almost as if the plan had been endorsed by providence. He lit the Handi Wipe fuse and scurried back to the apartment to wait for someone to innocently inform them that their auto was ablaze. After that, surely there would be an explosion. With the blast, all the tell-tale marks of his act would be incinerated. It was a good plan, he thought, and one that would solve the problem of shoddy repairs and help them to recoup the monies Hardy had failed to pay.

Money was important now. The investigation was over. There was no ready cash to spend on fabricated buys, winding up in their purse and pockets. There were no dealers taking their surplus drugs and marketing them on Tyler's streets. There was no outside resource that would supplement the salaries paid by the Tyler Police Department. Yes, money was a prime issue.

Matthew's scenario had been correct, to a point. They were informed by an excited witness that the car was on fire. The fire engines came and extinguished the blaze, but not before the vehicle was a total loss. The tow truck then arrived, pulling the scorched vehicle away, toward oblivion. Yes, things had gone almost exactly as Matthews had planned. Except. ... there had been no explosion. He had thought that the intense heat would have erupted the gas tank. He could not understand why it didn't.

Fire investigators would examine the vehicle, he knew. Even that was of little concern. The scope of a narc's authority and credibility are so vast that even the influence of a trained fire inspector caused him little concern. There was always an answer, always a reason. Any answer.... any reason could be believed in the hell-bent world of an undercover narc.

It would be but a few weeks later that the nomination of Kimberly Ann Ramsey for the coveted "Rookie of the Year" award would contain the statement, "Officer Ramsey's success as an undercover agent might be measured by the retaliatory action taken against her during and after the investigation. Ramsey's personal vehicle (1978 Oldsmobile) was burned and totally demolished, her apartment has been burglarized and her vehicle was burglarized with a brief case pried open."

In all their self-contained confidence, Matthews and Ramsey would not know that Fire Inspector Tom West and Tyler Fire Chief Jerry Weaver had discovered the box of Handi Wipes in the trunk of the car now located at a wrecking yard. That was enough to stir their suspicions, and the samples of the burnt fuse and the remaining Handi Wipes had been forwarded to the laboratories of the Federal Alcohol, Firearms & Tobacco agency for analysis. They would await the findings of the lab, read the daily newspapers of praise of the narcs, and feel all the while that something was terribly amiss.

On Thursday, May 17, 1979, the new Smith County Grand Jury convened and issued 33 additional indictments, 22 of which were related to the drug bust.

The new indictments brought the total to 90 defendants who had been charged with 180 offenses. Smith County citizens read the list of those charged in garish articles presented within the Tyler Morning Telegraph: James Edward Dow; Teresa Moore⁵⁶; Tony Null; Burrell Sanford, Jr.; Michael Dewayne Watson; Diane Sanford; David Ashcraft; Mark

⁵⁶ Teresa Moore is the same person as Teresa Tompkins, the waitress who discovered the pill on her tip tray.

Alan Durrett; Johnnie Berry; Elizabeth Vise⁵⁷; O'Neal Evans; Robert Gonzales; Mark Mayfield; John Clark; Marilyn Miller Richards; James Clemens; Mary Ashcraft; Sheri Hicks; Rodney Lynn McDaniel; Donald C. Smith; Robert Bibby; Royce Lundy; Greg Davie; David Adams, Jr.; Tom McCullough; Johnny Allen Green; Russell Warrington; Paul Woodward; Phillip Monigold; Bill McCain; Henry "Toby" Fuller. and the list went on.

Now, there were new names to be added to the roster that in many aspects resembled a page from some social blue book. Jennifer Stephens Little; Michael Douglas Cook; Gary Mills Walker; Michael E. Weatherly;

Jerry Wayne Hayes; James Allen Vickers; Cherie Katherine Paro; Aubrey Lee Parks; Barry Phillip Crow; Carl Lynn Johnson. . . yes, the list went on. The "potential defendants" were now literal defendants.... a gathering of young people whose composite ages would average to but 24 years.

At the Tyler Police Department, the vehicles of some of the suspects were now being stored behind a chain link security fence, impounded for their alleged role in drug transportation. The '72 Honda motorcycle belonging to Donald C. Smith; a '79 Chevrolet Corvette belonging to Rodney Lynn McDaniel; a '77 Dodge van belonging to Marilyn Richards; a '77 Capri belonging to Robert T. Gonzales; a '75 Chevrolet belonging to Robert Bibby; a '75 Chevrolet Corvette belonging to Royce Lundy; a '74 Cadillac belonging to Greg Davie; a '66 Chevrolet belonging to David Adams, Jr.; a '79 Ford pickup truck belonging to James Charles Clemens; a '77 Chevrolet belonging to Tom McCullough, and a '74 Porsche belonging to Bruce Brunelli, were all placed in uniform rows as testimony to their alleged rolls in reported drug transactions.

The reason for the impoundments was stated within the Tyler Morning Telegraph where Willie Hardy reportedly said that, "The department, through the district attorney's office, has filed with the district clerk's office its intention to seize 14 vehicles, and civil hearings before a state district judge will be held later to determine if the vehicles will be awarded to the department."

Throughout the course of the arrests, Mrs. Leon Hicks, Justice of the

57 Elizabeth Vise was charged with drug violations after her boyfriend stopped by Matthews' apartment en route to another party. Somehow, her name was learned by the narcs and she was subsequently charged.

Peace for the jurisdiction covering the drug bust, was busy establishing bond amounts for the defendants. Typically, the bonds were set at \$10,000 per offense, but the bond required for Kenneth Andrew Bora was set at a staggering \$500,000.

At last, the "body count" of the Tyler drug bust was reached. One hundred and twenty-one suspects, making it the largest drug bust in the history of East Texas. It was again time for celebration. There would be a good deal of time to pass between the actual arrests and the time when the cases would be heard by the courts. That time would have to be used wisely. Hardy and Wagoner had already planned for its use. But for now, there was only celebration and toasts to the courageous young agents who had given so much to rid Smith County of the vermin within the drug culture.

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The timing of the drug bust was critical. Yet, the reasons for it being of such importance remains another matter of speculation. For Creig Matthews, it is the belief that he alone set the time for it to take place and gave another of his bizarre accounts for why the bust took place when it did.

"Steve McGill once sat across the kitchen table from me and told me his philosophy on life is to slit thy neighbor's throat and pimp his kids. He's one of the sorriest individuals I have ever been around in my life. His biggest objective was to get Cheri Paro strung out on Preludin and turn her out as a whore. When we busted him with all that stolen property.... about fifty thousand dollars worth.... that was on a Wednesday. Steve was planning a party for Friday night and that was the night that was to be the first time Cheri fixed and she was going to fix Preludin. It was an orgy type deal Steve was planning. That was the reason we busted all that merchandise, to keep Cheri from fixing. We interrupted the investigation for that little chick. Steve was giving us first choice of the merchandise. They came over on Easter Sunday morning and picked Kim up and said, 'Hey, look what the bunny brought us!' They had just ripped off five places Easter Sunday morning. They showed us shotguns, silver, jewelry, coin collections, you name it."

To Matthews' mind, the bust was timed to prevent Cheri Paro from being converted to a prostitute by Steve McGill. How much credibility can be placed within this observation only extends the scope of speculation. When told of this statement, that Steve McGill had reportedly intended to "turn her out," Cherie Paro was later to shake her head sadly, saying, "I don't doubt it."

Yet, it required another journey of 1,500 miles to locate and interview Steve McGill in 1984. The result of that interview revealed a young man who had settled considerably with the passing of five years. In street jargon, he had "mellowed." Upon learning that an author was in his midst wanting to conduct an interview, McGill bolted from the room, dashing to his automobile and stirring dust with a hasty retreat. It took hours of convincing discussion to have his parents locate McGill and bring him to a restaurant where the interview could be held. In that discussion, McGill was to state, "I loved Cherie Paro more than I've ever loved another woman. I still love her." Whether those emotions are a current reflection on a time long past, or symbolized how a drug-riddled young man felt in 1979 would be a matter demanding too much conjecture for presentation.

A second theory concerning the timing of the drug bust has what is possibly greater merit in terms of logistics. It is the position of former Tyler vice supervisor, Mike Lusk, that the drug bust was timed in relation to the term of office of the Smith County grand jury. It should be recalled that Smith County has a system wherein the authority over the grand jury is rotated amongst three district judges. In this instance, according to Lusk, there was the hope that the cases could be presented to a grand jury under the auspices of District Judge Glenn Phillips. This hope was extended to the goal that if Phillips had authority over the grand jury, then the cases resulting in indictments would eventually be assigned to Phillips' court. One thing is known.... the indictments were returned by Phillips' grand jury in the final week of their term.

Due to the enormous number of cases, however, it was determined that Judge Phillips' court was already overburdened with cases received throughout the term of that grand jury. His docket was already filled with prior cases submitted by the grand jury and other procedures would have to be effected. After conferring with his peers on the bench, a system was devised wherein the cases were divided between the courts of 7th District

Judge Donald Carroll and the judge of the 114th District, Galloway Calhoun. The only remaining judge within the system was 321st District Judge Harold P. Clapp, who concentrated mostly on domestic affairs. Phillips was to preside over a scant minority of the cases, and if this was the plan, as described by Lusk, to have Phillips as the dominant judge in the bust cases, then it was a plan that certainly went awry.

For the moment, this development was but a minor hitch in the scheme of things. The time of glory had arrived and newspapers across the state, from Dallas to Houston; from Amarillo to El Paso, all heralded the largest drug bust in recent times and reduced quotes by Willie Hardy into the printed word. Citizens called with congratulatory messages and Hardy could not walk down the streets of Tyler without being approached by appreciative constituents. It was Caesar riding through the streets of Rome after a conquest; the liberation of an oppressed city by the axis forces. It was indeed a moment of glory, and one that begged for exploitation.

Don Chaney, part-owner and general manager of radio station KTBB, one of the more popular stations within Smith County, jumped on the band wagon by presenting one of his personally-delivered editorials over the air:

"I have not had the privilege to live here in Tyler all my life like many of you have," began Chaney. "But in the time I've been here, I've become impressed with the quality of life in the Rose City. Some of that quality is due to the fine law enforcement we receive.

"And to keep this quality high, Tyler police recently began a roundup of suspected drug offenders. It was an extensive eight-month undercover investigation that led to officers seeking 121 persons named in 226 warrants. The District Attorney says he feels all of the cases were very good ones.

"I can imagine this was an expensive operation that required a lot of man hours. But I feel our citizens, our children, are well worth the effort. "I would like to congratulate Tyler police for their professionalism. Not only in this recent drug case, but in all that they do. The department is a credit to Tyler, and to the people who want our quality of life to continue at a high level."

It was the same Don Chaney who would dismiss the suggestion from one of his employees that perhaps there was something more to the Bora

case, that perhaps all was not as it seemed. "No," he was to warn, "we have to get this man off the streets."

The News Director at KTBB, Mike Edwards, meanwhile, was busy preparing a document that would fit well into the plans to exploit the public's zeal in supporting the activities of the Tyler Police Department. Edwards was to compose a letter that would be joined with others to further impress an unsuspecting public with the vast "achievements" of their local law enforcement.

The letter written by Edwards was addressed to Mr. M.C. Roebuck, Secretary-Treasurer, East Texas Police Officer's Association, and was dated May 15, 1979, a full three days before 22 more indictments were returned by the Smith County Grand Jury.

"Dear Sir;

"I understand you are taking nominations for the leadership award of the East Texas Police Officers Association. I would like to nominate a man for that award.

"He is Tyler Police Chief Willie Hardy. Chief Hardy assumed command of the Tyler Police Department under trying circumstances. He was named acting chief last December after Police Chief Ronnie Malloch was shot to death. He was later named Chief by unanimous vote of the city council.

"Chief Hardy became a Sergeant in the Tyler Police Department in April, 1970. He was promoted to Lieutenant in November, 1973, and to Captain in February, 1975. Chief Hardy became Assistant Chief in charge of line operations in February, 1976.

"Chief Hardy received his Masters Degree in Criminal Justice from Texas Eastern University. He also serves as an instructor in Criminal Justice at T.E.U. and was a member of the search committee for chairperson for the Criminal Justice Department at the school.

"Chief Hardy formed an active recruiting section and brought the department, which at times has been short over twelve men, to full strength. As a training director, Chief Hardy began an active training pro gram in the department, resulting in a doubling of the officers training. Besides stressing education and training in the department, he helped organize one of the largest undercover drug operations in the East Texas area. The operation resulted in 226 arrest warrants against 121 persons.

That drug bust resulted in our station manager, Don Chaney, praising the Tyler Police Department in an editorial, which is attached.

"Chief Hardy is a member of the East Texas Police Chief's Association, a member of the East Texas Peace Officer's Association, a member of the Board of Directors of the Boys Club of Tyler and a past director of the Tyler Lions Club.

"Chief Hardy has worked for the improvement of the Tyler Police Department. The results of that hard work can be seen. He took over as Chief in a time of crisis and has maintained a very efficient operation.

"It is for these reasons that I nominate Tyler Police Chief Willie Hardy for the East Texas Police Officer's Association's Leadership Award.

Sincerely yours,
Mike Edwards
News Director."

The nomination was typed and submitted on the stationery of KTBB radio station, indicating that the manager, Don Chaney knew of it, or at least endorsed it. Ironically, on the same date, May 15th, Chaney was to forward a copy of his editorial to Willie Hardy with a cover letter that included the comment, "Please be assured that this is not a personal attack, but strictly an opinion of KTBB Radio Station." How anyone could have construed such praise as an attack is a lingering question.

Only the day before, on May 14th, Willie Hardy was to compose a letter of his own. It, too, was addressed to the Secretary Treasurer of the East Texas Police Officer's Association in Nacogdoches, Texas.

"Kimberly Ann Ramsey is 24 years old, born December 4, 1954. She was employed by the Tyler Police Department on February 1, 1979. She is the daughter of Mr. and Mrs. William Edward Wozencraft of Dallas, Texas. She graduated from Lake Highlands High School in Dallas and attended Abilene Christian College, Tyler Junior College, and Texas Eastern University, where she is majoring in Psychology with a minor in Criminal Justice.

"Officer Ramsey's hobbies are Photography, Softball, and Track and Field events.

"Prior to employment with the Tyler Police Department, Officer Ramsey worked with the Plano Police Department, for approximately two

years, serving as an undercover officer, Patrol Officer, and Criminal Investigator. While at the Plano Police Department she attended the North Central Texas Police Academy, D.P.S. Rape Investigation School, and D.P.S. Narcotics Investigation School. Officer Ramsey has received numerous letters of commendation, some of which are from State District Judge Tom Ryan, McKinney, Texas, Criminal District Attorney Tom O'Connell, Collin County, Texas, and Mayor Norman F. Whitsitt, Plano, Texas.

"During Officer Ramsey's employment with the Tyler Police Department, she has been assigned to an undercover narcotics investigation with another agent, Creig Matthews, where officers received 226 narcotic arrest warrants on 126 defendants. The charges ranged from Delivery of Cocaine, Heroin, Methamphetamine, and Marijuana. During the investigation, Officer Ramsey displayed the ability, courage, and professional police attitude so desperately needed in such a demanding job.

"Officer Ramsey's success as an undercover agent might be measured by the retaliatory action taken against her during and after the investigation. Ramsey's personal vehicle (1978 Oldsmobile) was burned and totally demolished, her apartment has been burglarized and her vehicle was burglarized and a brief case pried open.

"With these accomplishments in mind, I whole-heartedly recommend Officer Kimberly Ann Ramsey for the 'Rookie of the Year' award.

Willie Hardy
Chief of Police
Tyler Police Department"

To solidify the onslaught, Kenneth W. Findley, Assistant Chief of Police, penned his own recommendation of Willie Hardy for the "Leadership Award" in a letter dated May 16, 1979.

Nine days later, on May 25th, Hardy was to strike again, this time nominating Creig Matthews for the coveted "Outstanding Peace Officer Award." He was to list Matthews' academic achievements and to outline his role in the infamous drug investigation.

"During his employment with the Tyler Police Department, Matthews was assigned to an 8-month long undercover narcotics investigation that recently gained nationwide attention. The sum total of this investigation was the issuance of 226 arrest warrants for 126 defendants. One of these

defendants is a person reputed by the Dallas Morning News to be a prominent figure in the pornography business."

How the circle of communication was to form a web of manipulation! Howard Swindle, investigative reporter for the Dallas Morning News had learned of the reported charge that Bora was a porno kingpin from sources within the Tyler Police Department! Now, Hardy was to imply that the Dallas Morning News had suggested that Bora had this unsavory background!

Creig Matthews was later to laugh about the awards. "That was fixed," he commented. "We knew that was happening way before it did. Hardy told us we were going to get it. It was a fixed situation. It was to enhance our credibility when we went to trial."

Whether Matthews was right or not in his assessment, the following days found him on the lecture circuit with Willie Hardy. Kim and Creig would appear before civic groups telling of the horrors of drug addiction and of the arduous labor demanded to rid society of its curse. Hardy would always endorse their comments, receiving with them the applause of an appreciative audience. Churches, classrooms, service clubs, no one was spared personal appearances from the terrific trio who had cooperated in the biggest drug bust in East Texas.

The desired effect had been obtained. Details of the enormous bust had reached wire services and television networks across the nation and the offices of Willie Hardy and Ed Wagoner were besieged with requests for direct quotes and commentaries. Of course, Charles Clark was always available to make certain that these comments would never jeopardize the pending cases. It was the second time within six months that Tyler had made the national news. Only months before, the prestigious Paul Harvey had made mention of the slaying of Police Chief Ronnie Malloch.

If anyone approached the topic of the drug bust with true objectivity, it was the Rev. J. Pittman McGehee of Tyler's Christ Episcopal Church. The content of his message to his congregation on the morning of July 8, 1979 is worthy of presentation since it reveals much of the community's feelings at that time. Had the populace not held certain vindictive emotions toward the defendants, it is apparent that many of the comments by Rev. McGehee would not have been needed. His sermon was brief, stating:

"Text: John 7:53-8:11. This incident at the Temple has very direct implications for one of the biggest news stories of the decade here in Tyler. East Texas' largest drug raid happened right here in Rose City this summer, and the story continues with the criminal justice system's response through trials.

"I have not avoided talking publicly about this incident in our midst. I have waited until my own reactions, and perhaps yours, too, were tempered with time and truth.

"There are four implications of this story about which I want to speak. The persons, the city, the system, and the future.

"Immanuel Kant once wrote with keen observation, 'We do not take total displeasure in the misfortunes of our friends.' The families involved in the arrests and indictments cannot be lumped together in one corporate or definitive description. Each story is as unique as the solitary, complex, human system. The only generalities that can be made have to do with effect, not cause. The causes run from innocent victims trapped in a naive subcultural pattern, to the Machiavellian criminals who prey on weakness for profit. The effect is pain and embarrassment. The cause is human nature, of either unconscious immature experimentations, or conscious ruthless exploiters who flock like buzzards anywhere profit can be made on weakness of the flesh.

"The self righteousness of anyone who wants easy blame is exposed in the Gospel Story of the woman taken in adultery. Those who gathered to stone that woman were punishing their own erotic desires by the pounding of flesh purchased by a rock thrown. Those who came to stone the woman were raw examples of Kant's sophisticated statement, 'We do not take total displeasure in the misfortunes of our friends.'

"I cannot and will not pick up so much as a pebble to throw in blame for this reason. First, the world in which we live today is so much larger in influence than simply parents or family. Mass communications systems and travel have lessened the influence of parents on children. The parents of these children are no more to blame for their children's actions than the children are to blame for the systems which have seduced them into believing that artificial drug-induced pleasure is an alternative to the creative pain of reality. The second reason I will not pick up so much as a pebble is because of the wisdom of Jesus in John's Gospel. He who is

without sin cast the first stone. I live in a glass house and, therefore, can see my own reflection as I ponder pebble-tossing. I have two little boys. They put beans in their noses as babies and may continue to until they learn that beans were not grown for nostrils. The older they get, the higher the stakes for experimentation and rebellion. I'm only a part of the picture of influence upon them. No self righteousness from me. No easy answer blame. Not so much as a pebble. And no parent of any child should be ashamed unless being human is a scandal. And any pious, self-righteous rock throwers who want easy answers or clear blame are as guilty as those who grabbed rocks and wanted to exercise their own guilt with knuckles white from the tension of the rock and flesh. He who is without sin.... and not one rock was thrown then and none need be thrown now.

"Perhaps what ought to be learned is that Tyler, Texas, does exist in the real world. This town cannot continue to look at itself with rose-colored glasses. The same temptation and tragedy that exists anywhere, exists everywhere. Tyler is a good place to raise children, yet mass communication and travel are such that there is no place to hide from the reality that evil knows no geography, no racial boundaries, no economic barriers, we all are affected by being human no matter what we want to believe.

"We who set the standards of community mores do not always set the standard of credibility. The youth sub-culture who are victims of drug crime are naive about the predominant culture who votes one way on legality of alcohol and yet acts another way on its consumption. Which culture is the more honest? I do not condone the evil in abuse of either culture, yet I abhor the dishonesty of each. If one acts like an evil does not exist, it doesn't disappear, it simply has freer reign. If one sweeps dirt under a rug, be prepared to stumble over bumps.

"The criminal justice system is like any other human institution. It is not a perfect system. My hope is that there is not an over-reaction of juries hoping to make sacrificial lambs out of those victims who are implying symptoms of our own denial. Tyler is not going to be a better city by over reaction in prison sentences.

"Do not misunderstand me. Those vultures who were here preying off of the ignorance of people for profit the criminals who must face

punishment should get punishment equal to their crime. But each case should be evaluated on its own merit and I hope that the community does not try to cover its own weaknesses in the strength of inappropriate punishment.

"And finally to those young people who experiment with drugs. Both those arrested and those who were not. Please learn something. The use of drugs is not the problem. The problem is abuse. Anything that makes you less than human is an evil. Do not escape into the unreality of drug abuse, learn the grace of reality and its creative pain. If nothing else, learn the justice of God as espoused by Jesus to the woman caught in her own human predicament. Once he asked those who were without sin to cast the first stone, they left one by one in the silence of their own sinful natures. And then Jesus turned to the woman and said to her, 'Where are they? Has no one condemned you?' And she answered, 'No one, Lord. And Jesus replied, 'Neither do I condemn you.' And please listen to his last statement. . . . 'Go and sin no more. "

Woe to the theologians who maintain that the prophets are no longer among us! The content of Rev. McGehee's sermon was as prophetic as any commentary to be found within Scripture! He referred to the defendants as "victims." He called for a populace to be patient and cautious, not to be reactionary and to wait for time and truth to prevail. He chastised the self-righteous. He introduced doubts about the reactive sentences to be levied by a jury system within a greater network of jurisprudence. Yes, Rev. J. Pittman McGehee predicted quite well the future contained within the explosive drug bust and one must applaud his courage and true sense of goodness! By 1982, Rev. McGehee had been transferred out of Tyler to serve a congregation in Houston.

The conservative Tyler Courier-Times also added to the hoopla surrounding Hardy's tour with his narcs on the regional lecture circuit. In a rare editorial dealing with a topical local subject, the newspaper declared, "Officials, Efforts On Clubs Should Get Encouragement." Already, the allies of Hardy and District Attorney Hunter Brush were at work seeking to have the licenses of Bora's clubs revoked by the Texas Alcoholic Beverage Commission in Austin. Before the commission, they were armed with a falsified statement from Matthews and Ramsey declaring that the clubs were cesspools of drug activity. The statement had been presented

and notarized in Longview, Texas, Gregg County, adjacent to Smith County. It was obvious that officials dealing with the attempt to have the licenses revoked did not want any notary public to learn of the effort, thus it became necessary to make the proclamations some distance away where the event could be maintained with greater secrecy.

This document, as well, is worthy of reproduction here, for it reveals to what extent Tyler's hierarchy went to secure Bora's clubs.

"State of Texas, County Gregg. Before me, the undersigned authority, on this day personally appeared Kimberly Ann Ramsey, a Peace Officer for the Tyler Police Department, who after being by me duly sworn did depose and say: My name is Kimberly Ann Ramsey. I live at 711 West Ferguson, Tyler, Smith County, Texas. I am a policewoman for the City of Tyler Police Department, where I have been employed since February 9, 1979. At this time I am assigned to undercover narcotics investigation to work with Benjamin Creig Matthews.

"On Monday, the 2nd of April, 1979, at approximately 9:30 p.m. I was inside the Point 21 located at 713 West SW Loop 323, Tyler, Smith County, Texas, at which time I contacted a man whom I know to be Frank Hillin, the owner of the Point 21, because I had been introduced to him and had been (with) him present several times. I then asked Frank Hillin if there was any snow around.

"Frank Hillin said that you should know because Jim, that's Benjamin Creig Matthews, just scored an ounce from Ken Bora a couple of days ago.

"I stated, 'I can't believe he didn't tell me about it,' and Frank stated that 'You should go check with him for he has some.'

"At approximately 10:00 o'clock p.m., I left the Point 21.

"In my opinion Frank Hillin knew for a fact that drugs were being sold on the licensed premises of Point 21 and Anothre Place.

"On Saturday, the 31st day of March, 1979, at approximately 10:20 p.m., I was at Anothre Place working with Agent Benjamin Creig Matthews, at which time I witnessed Agent Matthews and Ken Bora standing in a hallway near the rear exit door when I noticed Ken Bora reach in his left front pocket and look over his shoulder and hand Agent Matthews a packet which was a plastic bag, which appeared to contain a white powder.

"Benjamin Creig Matthews came to the table where I was sitting and we left the licensed premises of Anothre Place at approximately 10:25 p.m., this same date.

"Subscribed and sworn to before me by Kimberly Ann Ramsey on the 23rd day of May, 1979. Notary Public in and for Gregg County, Texas." Creig Matthews was to file a similar report, also notarized and sworn to before a notary public. Both documents were presented to the Alcoholic Beverage Control Commission in Austin. Matthews and Ramsey were later to admit that the entire content of these documents were false. Interestingly, Matthews was later to claim that Hardy insisted that whatever case was made against Bora, it should take place within one of his clubs so that they could "pull his license." Now, the fraudulent reports clearly had the offenses taking place within one of the clubs and the project was in high gear to influence the ABC in Austin.

The attempt gained the endorsement of the Tyler Courier-Times as the newspaper, notoriously known for its middle-of-the-road stances, now openly declared, "Tyler and Smith County officials deserve encouragement in their efforts to get a bunch of private clubs in the area closed down."

The lengthy editorial supported the effort to close four Tyler clubs, two of which were Hillin's and Bora's, and continued by quoting an official with the Alcoholic Beverage Control Commission as saying, "As an example, he said that if an employee were allowed to continue working at a club after being charged in connection with the drug bust it might be taken into consideration in a decision. It was learned this week that some Tyler clubs have not fired employees involved in the raids."

The most novice student of Constitutional law should be enraged with such a posture. The very premise of "being innocent until proven guilty" is violated in this position where the failure to dismiss an employee who had been *accused* of a drug offense could be considered as additional grounds to revoke a liquor license. The implications are devastating. In this line of reasoning, the management of clubs are mandated to take punitive action, discharging *accused* employees in order to secure the hope of continuing their business!

"The number of alleged drug violations connected with private clubs

as well as the *general situation on the looseness of their operations*, shows what a farce this thing is. There have been continuing reports indicating a pretty lax enforcement of laws pertaining to such clubs," the editorial continued.⁵⁸

One must wonder what "general situation on the looseness of their operations" the editor was implying. If the Courier-Times had information documenting the "loose operations" of the clubs, then it would have seemed proper to list them for public review. If, on the other hand, it was but a portion of the Tyler Police Department propaganda, then the charge should have reasonably been listed as stemming from such official sources. As it was presented, it was an indictment by innuendo.... an accusation unsupported by any revelations of evidence. The reality is that in the case of Point 21 and Anothre Place, the operations were quite efficient and orderly in respect to all accepted business practices. The fact that these clubs produced the immense profits that prompted Creig Matthews to later charge that Willie Hardy hated Kenneth Bora because he was making so much money in Tyler, testifies to the lucrative businesses. An additional reality is that the night club business is highly competitive, only the efficient ones survive. Point 21 and Anothre Place were more than surviving. From this profile, it is indeed difficult to determine how these (if they were included in the four clubs in question and they were not specifically removed from the group) were 'loosely operated." The editorial, of course, provided no such qualifications.

The editorial continued to explain, "While authority to revoke licenses of private clubs rests with the ABC, local officials can push such action by filing administrative hearings against the clubs where trafficking has been found to take place, and ask that hearings be scheduled as soon as possible, Brush (District Attorney Hunter Brush) said.

"Local officials indicate they plan to do their part, and community residents ought to support them in such actions."

The public relations campaign exploiting the drug bust continued until early May when the Courier-Times reported in bold headlines, "Law Enforcement Officers Cap Meeting With Awards."

One may recall that the pallbearers for Ronnie Malloch were composed of a group who were later to play pivotal roles in the saga of Smith

58 Editorial appearing in Section 1, Tyler Courier-Times, Wednesday, May 9, 1979.

County's drug bust. If fate had not played such an astounding irony, it was to do so again in the meeting of the East Texas Peace Officer's Association. The parenthesis are added within the following quotes to emphasize this point.

"The director of the Texas Department of Corrections told an East Texas peace officers audience Monday morning in Tyler," the Courier Times began, "he doesn't favor confiscation of firearms, but he does favor stricter licensing and direct blocking of gun sales to those with less need for them.

"W. J. Estelle (later to be removed as the head of the Texas Department of Corrections in the wake of a scandal) was the noon speaker during the 28th annual East Texas Peace Officers Association convention meeting in Tyler.

"The convention concluded Monday evening with an awards banquet.

"Two Tyler undercover narcotics agents received top awards for their work in recent drug busts in the city.

"Rookie of the Year Award went to Kimberly Ramsey (known to the drug culture as Karen Brooks, the narc who framed or helped to frame several of the defendants) of the Tyler Police Department. She was presented the award by M.C. Roebuck of Nacogdoches, secretary-treasurer of ETPOA, who commended her for her 'professionalism, courage and outstanding abilities.'

"Another Tyler officer, Benjamin Creig Matthews (a/k/a Jim Meyers, who was later to admit that the awards were 'fixed' and that he stashed drugs on defendants) received the Outstanding Peace Officer Award, presented by Texas Farm Products Co. of Nacogdoches.

"Tyler Police Chief Willie Hardy (who was accused by Matthews, Ramsey and their narc friends of manipulating the entire drug bust and suggesting that Ken Bora be 'stashed') also was honored as Frank Brunt (who was later to replace J.B. Smith as Smith County Sheriff only to be soundly defeated by Smith in a primary election in later years) a past president of the association, presented him with the East Texas Peace Officers Association Leadership Award.

" 'He is one of the most outstanding young law enforcement agents in the state,' Brunt said of Hardy."

Now, the plan had been executed. The Tyler Police Department had swept the top awards offered by the association honoring the best officers within their region. It had all gone as planned, and the biggest drug bust in East Texas was the seed of what all believed to be the growing legacy of a new regime.

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"The physician may cure the human body and the professor instills knowledge to the mind. The minister may guide the human spirit and the politician may light the way of social progress. But it is the attorney, and only the attorney, who has the right and power to operate within a given system to grant knowledge against evil, to guide the wayward toward justice, to illuminate the way through the dark corridors of collective ignorance, and to cure the wrongs that infect every segment of a society."

Unknown

OFFICERS OF THE COURT

Buck Files had been awakened from a sound sleep by the ringing of the telephone. He had an answering service serving his law office downtown, but was among those aggressive attorneys who listed his home telephone number in the local directory. For a moment, he was tempted to return to his slumber, to ignore the telephone, but knew that he could not. He arose and answered a sleepy, "hullo." The distraught parent at the other end of the line was the first to inform him that a major drug bust had taken place and he shook the drowsiness from his mind, advised the caller to meet him at his office, and hastily pulled on his clothes. He had barely begun to dress when the phone rang again and Files responded with his usual, "Hullo? Yes, how are you? Speak to me...." Another parent spoke of the bust, the voice trembling with emotion, and Files repeated his instructions to meet him at his office. Finally, he was forced to gently shake his wife, stating, "Answer the phone will you? Tell whoever it is to meet me at the office. I've gotta' run, see you."

The long succession of calls were not prompted by mere impulse or by random selection from the Yellow Pages. Files was known to be among the most effective criminal attorneys in the region. His courtroom style

was abrasive to many, but the results were always gratifying. Judges would scold him for his caustic approach to defending a client, but would also respect him for the effort he put into each case. A judge could always count on one thing with Files.... he had done his homework and knew what he was after, whether it was a reduced sentence, probation, or an outright acquittal. The slender, bearded man could sway juries with his astounding grasp of logic, and that was dangerous to many prosecutors, for the law is not always logical and the jury understood logic far better than they could the law. From that approach, Files had compiled an impressive record of acquittals.

He was to spend many long hours at the office, the schedule of awaiting clients forcing his hours to be extended in order to hear the repetition of details. It became alarming to him that the defendants were typically young, impressionable, naive and bearers of the same story of having been guilty of drug abuse, but not guilty of the specific charge contained in the indictment. The story was too repetitious, and Files was disturbed by it.

If Files was to have a peer in the realm of being energetic, ambitious and fiercely competitive, it was to be found in Kelly Ireland, then practicing with the prestigious Potter, Guinn, Minton, Roberts & Ireland law firm. Ireland was as out-spoken as Files, but was more palatable to judges and peers alike, perhaps because of the reputations of his influential partners within the firm. At the luxurious Petroleum Club, Files was to moan a gesture of his weariness and relate the avalanche of clients brought by the drug bust. Ireland was to reveal that he had experienced the same thing, and related that he was disturbed by the fact that his clients continually claimed innocence of the charges in the indictments. They would readily admit to drug usage, but violently deny the specific charges brought from the grand jury. Files smiled. Now he knew he was not alone in his suspicions and struck an agreement with Ireland that they would share the cost of hiring a private investigator who would do a complete background investigation on the narcs, Creig Matthews and Kim Ramsey. They shook hands and agreed to hire Dennis Price, a former ATF agent with the innate ability to gather an abundance of information in a short period of time. That was exactly what they needed, lots of information and the time was short.

Price accepted the assignment with an obvious excitement. It was his kind of job. He hungered for challenging work that took him out of the doldrums of mundane investigative efforts typically called for by attorneys. Now, there was something he could sink his teeth into, and he went to work zealously. Within weeks, he submitted a report to Files and Ireland who sat in File's conference room when the moon was high, gasping at the data placed before them. "Holy shit," groaned Files, "what the hell do we have here?"

"Benjamin Creig Matthews S.S. No. 463-72-9869 Date of Birth: 8-31-46⁵⁹

Place of residence prior to coming to Plano, Texas is believed to be Monahans, Texas. Believed to have worked for Monahans P.D. for a short time.

"Creig Matthews worked for Dallas Police Department from January 1968 thru November 1968. Reason for termination unknown.

"Creig Matthews worked for Plano Police Department from October 1, 1969 thru July 11, 1977. The reasons for his resignation are unclear. In the official report he was recommended for rehire. Unofficial sources indicate that he left under pressure due to an investigation being conducted by multiple law enforcement agencies. He allegedly applied for DPS, but was refused employment.

"The period between November 1968 and October 1969 has not been investigated.

"Official information relating to Matthews employment in Plano came from the Chief of Police's Administrative Assistant, James McCarley. The dates of employment came from the City of Plano personnel director, Joe L. Francis.

"On 7-11-77, Creig Matthews had accrued 108 months as a police officer. In Plano, he had worked his way through the ranks from patrolman to Lt. of Detectives. His chief from 1968 thru 1975 was J.B. Toler.⁶⁰

59 Ironically, Matthews came to work for the Tyler Police Department on his 32nd birthday.

60 Toler was working in Tyler at the time of Matthews being hired by the Tyler Police Department, yet he was never contacted as a reference to Matthews' qualities as a police officer!

Mr. Toler is currently an assistant to Tyler City Marshall, Joe Elliot. Matthews' chief from 1975 thru 1977 was Duane Kinsey. Mr. Kinsey is the current Chief at Plano.

"Creig Matthews' records show 108 months as a police officer. Ninety three (93) months of this employment are known to this investigator. This leave 15 months of employment unaccounted for.

"Creig Matthews was married to Joyce Edwards of Monahans, Texas. Joyce Edwards' father is RC. Edwards of Monahans, Texas. It is reported that they had one son. It is further reported that they divorced in 1972. Creig's marriage to Joyce is believed to be his second marriage. Joyce was possibly represented in this divorce by Bill Roberts, attorney, McKinney, Texas. Joyce reportedly had some emotional problems after the divorce and attempted suicide. After their divorce, Joyce worked for Plano Answering Service, Inc., 1604 Ave. J, Plano, Texas 75074. Joyce remarried and moved to Houston, Texas, with a former Plano police officer named Whitehead. Joyce had another son during this marriage. It is reported that she subsequently divorced Whitehead and has returned to Dallas area (possibly as an apartment manager).

"On December 19, 1972, a marriage license was issued in Collin County, Texas, to Benjamin Creig Matthews, 26, and Patricia Diane Walker, 18. They were married on January 5, 1973, at the First Baptist Church of Plano, Texas, by Rev. Travis Berry, pastor. No children are known to have resulted from this marriage. Diane and Creig have since divorced. This divorce is not reported in Collin County. It possibly was settled in Dallas County. It is believed that Creig was represented by Bill Boyd, attorney of McKinney, Texas. The divorce is believed to have occurred in 1977. When Matthews first started dating Diane, she was in high school. Her parents were separated and she was staying with a girl by the name of Mary Lou Hamilton. Rev. Berry was approached during this time by some citizens in Plano who were concerned about the involvement of some Plano Police officers with high school age youngsters. He (Rev. Berry) made this known to the Chief of Police and the problem reportedly subsided. Diane's mother has since remarried and is believed to be living in the vicinity of Austin, Texas. Her name prior to her remarriage was Jodi Walker. Diane Walker was last known to be living in Dallas, Texas, and was working for ALTEC in Richardson, Texas. This inform-

tion has not been verified. It was reported to this investigator that Creig and Diane moved into an apartment in Plano, Texas, in December of 1977 with Creig's former wife, Joyce, and her two sons. Creig was reportedly unemployed at this time. Unverified information indicates that he worked for the New York Life Insurance Company of Dallas for an undetermined period. It has also been reported that he attempted to get employment with the Texas Department of Public Safety but was refused. Diane Walker Matthews had a sister (name unknown) who was married to a man named Glen Grady. They are now reportedly divorced. Glen Grady is a fireman in Balch Springs, Texas.

"Creig Matthews reportedly has a brother, Hollis C. Matthews, living in Odessa, Texas, and a sister, Treasure Collins, living in Snyder, Texas. "In 1973, the Plano city directory shows police Sgt. Creig Matthews living at 1210 Brentwood Drive, Plano, Texas.

"In 1974, the city director shows Creig Matthews and Diane living at 1210 Brentwood Drive, Plano, Texas.

"The residence at 1210 Brentwood was occupied by the son of Plano Fire Chief, Lee Mayfield after Matthews moved out. Chief Mayfield reported that the house was extremely dirty inside when his son moved in.

The 1976 Plano City directory showed that Creig Matthews lived at 193 Ashwood, Plano, Texas. This residence is an apartment located in the Creekwood Apts. A candle reportedly ignited some Christmas decorations on the lower level of the apartment. Matthews claims that he escaped the blaze by jumping from an upstairs window. The loss to the contents of the apartment was reported to be \$2,500.00, and the damage to the apartment was reported to be \$2,000.00. After the blaze was put out, Matthews returned to the apartment to recover 'some important papers' from a chair in the apartment. Lt. George Caldwell of the Plano Fire Department, and possibly some other fireman found some indication of marijuana or narcotics in the apartment. This was reported to Fire Chief Mayfield who in turn reported this to the Chief of Police. The exact nature of the items found could not be determined by this investigator. The Chief of Police reportedly said that Matthews had been given permission to maintain evidence of this nature at his apartment. It is believed that this incident served to initiate an investigation of Matthews. The

results of the investigation are unknown to this investigator. It is reported that a closed door meeting took place in Dallas, Texas, to set up the investigation. The Chief of the Plano Police Department, the chief and officers from the Richardson Police Department, and DEA agents reportedly attended. An investigation reportedly ensued, but was stopped short of completion because Matthews discovered that he was being followed. No official report of this investigation has been found to date.

"After the above-mentioned fire, Creig Matthews reportedly moved DeWayne Hamilton out of his house and moved in. DeWayne Hamilton is an alleged heroin addict and a paid informant. He was reportedly an informant for Bob Harden, an ex-DPS narcotics agent. Hardin reportedly turned Hamilton over to another DPS narcotics agent, Troy Braswell (now ex) who in turn gave him to Matthews. Hamilton ran a used car dealership in Plano for a while. DeWayne Hamilton was reportedly selling heroin in Plano while setting up other people for Matthews. Hamilton's present whereabouts are unknown to this investigator. He was in Collin County Jail until approximately six months ago.

"DeWayne Hamilton was married for a time to Mary Lou Harrington, previously mentioned in this report. The marriage was believed to have taken place to prevent Ms. Harrington from testifying against him in court. Ms. Harrington is from a well-known family in Plano, Texas, and is reported to have ample financial means. The present residence of Ms. Harrington is also unknown to this investigator at this time.

"The description of DeWayne Hamilton fits that of a person who reportedly met with Matthews in Dallas. This report comes from a current defendant in the Tyler drug investigation.

"Matthews also reportedly lived in the Villa Apartments, 1717 Independence Parkway, Plano, Texas. These were the apartments where he allegedly lived with Kim Ramsey. They were reportedly living together in an apartment with a girl named Karen Reynolds. Reynolds was formerly an officer with the Plano Police Department. Karen Reynolds is now married to a Plano Police Department officer named Steve Kerr. They recently had a baby. While Creig and Kim were living with Karen, it was reported that a jar of marijuana seeds were found in the apartment by the Internal Affairs Division of the Plano Police Department. This division tried to put something on the above-mentioned individuals. The inves-

tigation was disrupted by Plano Police Department warrant officer, Lonnie F. Carter who had security at the apartments, and who was not informed of the investigation. Karen was dating a Dallas Police Department reserve officer at the time.

"On March 1, 1977, Creig and Diane Matthews moved into an apartment in Richardson, Texas. The apartment complex is named the Shenandoah Apartments, and is located at Spring Valley and Coit Road in Richardson, Texas. The manager's name is Vicki McDonald. Their address is believed to have been 927-C, Allegeny Place. Diane left Creig sometime during this period. On June 9, 1977, the manager turned off the electricity in the apartment. On June 27, 1977, the apartment was considered abandoned. A balance of \$165.25 was owed on the apartment at this time and the contents were seized in lieu of payment. On September 1, 1977, Diane Matthews came in and paid the balance owed and recovered the property seized. The door of the apartment had been kicked in and the jamb had to be replaced.

"During the time that Matthews was a police officer, Rev. Travis Berry, pastor of the First Baptist Church in Plano, was contacted by numerous citizens and officers of the Plano and Richardson Police Departments with complaints relating to the methods and activities used by Matthews. Rev. Berry is a former member of the Human Relations Council and a well respected member of the community. He is not affected by local politics as others might be. He stated that at first he discounted the information as 'sour grapes' by those arrested by Matthews. However, the persistence of these complaints and the fact that Matthews' fellow officers were talking to him, prompted him to take a second look. The complaints were that Matthews was using and selling drugs and that he was involved in this activity with current and former DPS narcotics agents. It was also alleged that Matthews was attempting to procure high school age girls for the purpose of prostitution. It was also alleged that Matthews was dangerous and might kill anyone who crossed him. Some of this information was made known to city councilman, Robert Collins. Robert Collins is still on the Plano City Council. Rev. Berry became very concerned and called for a meeting in Waco, Texas, with Tom O'Connell, District Attorney from Collin County, Wilson Spier, Director of the Texas Department of Public Safety, the head of the Texas Rangers, and the head of the DPS Narcotics

Division. At this meeting, all the allegations relating to Matthews were aired. When Rev. Berry got back to Plano, word had already gotten out about the meeting. Rev. Berry called Wilson Spier and advised him of the leak. The results of this meeting are unknown to this investigator."

Price's report continued to list the names of fifteen persons who had had contact with Matthews during his days in Plano, Texas. The commentary from such persons was consistently negative with the exception of the ex-narcs on the list who indicated that Matthews was a "fine officer."

One of the more interesting people appearing on the list was identified as only Mrs. Allen. The content of her statement indicates, however, that she experienced one event that cast serious doubts on Plano Police Lieutenant Creig Matthews' credibility. "However, on one occasion, Mrs. Allen was asked by another officer to run a check on the serial number of a pistol. Mrs. Allen ran the number on the computer and it showed the gun to be stolen. Mrs. Allen told the officer and asked him where the gun was. The officer told her that Lt. Matthews was wearing it. The gun was reportedly stolen from Lone Star Gun Shop, Plano, Texas."

Price continued his report with a brief resume of Kimberly Ann Ramsey. The information dealing with Ramsey was less impressive to the attorneys, and they assumed that perhaps she had been but a naive young officer led astray by the likes of Creig Matthews.

Now, armed with Price's report, the attorneys felt that they had discovered some real issues dealing with Matthews' credibility. That subject would open the door to other questions. Why did the Tyler Police Department hire Matthews with his unsavory background? How efficient are the screening procedures of the department? Did the District Attorney know of Matthews' past? Why hadn't the former Chief of Police of the Plano Police Department, J.B. Toler, been contacted during the employment screening process for Matthews? With the past allegations of Matthews' drug abuse, could it be that the defendants appearing in their offices were telling the truth? One thing was certain.... they would put Dennis Price back on the trail and attempt to document some of the allegations appearing in his report.

The supplemental reports, this time supported by documents, coming in from Price gave further insights into the "Officer of the Year" Creig Matthews. Files and Ireland would arrange meetings to review the data

and would huddle around conference tables, muttering, "look at this one!"

The scenario presented by the documents revealed that Matthews was always an officer operating on the fringes of the accepted codes of conduct. Even prior to his undercover days, his demeanor was suspect. On January 15, 1974, Plano Chief of Police, J.B. Toler, received a series of reports dealing with the complaint of a prisoner that had been abused at the hands of then-Sergeant Creig Matthews. Officers witnessing the event had been asked to file reports and submit them to the Patrol Commander, Johnny Mock. The sequence of the reports make them extremely interesting:

"Dear Chief:

"On January 12, 1974, at approximately 1:55 AM, Officer James Hoskins brought in two N/Ms⁶¹ as they were coming into the station, I overheard one of the prisoners, the taller of the two, cursing the officers and all police in general, calling them pigs, and mother-fucking pigs and other abusive names. Expecting the officers might have trouble with these two people, I went into the squad room and did advise this one subject that there was no need for him to give these officers such a hard time that they just had a job to do, and this is when Lee (the name of one of those arrested) started to tell how well educated he was and that he was going to cause trouble for the officers that he knew some powerful people and they were going to know how he had been arrested for nothing and brought to the police station. I started to leave the room and Lee jumped up from his chair and this is when Sgt. Matthews and Officer Pou did subdue him and place him back in his chair and I left then.

"Talked to Sgt. Latham on January 14, 1974 and Sgt. Latham advised that he had let Lee make a phone call, Sgt. Latham stated that Lee got to using such profane and abusive language over the phone that he had to cut Lee off the line.....

The report concluded with a list of contacts made by the officer submitting it, Sgt. Johnny Mock, the Patrol Commander himself, indicating that the charge was groundless, ending with the finding, "In this officer's opinion, Vernon Jermone Lee was not abused or mistreated and at no

61 Law enforcement often utilizes abbreviations, this one meaning two Negro Males.

time was there any more force used than was necessary to subdue this person."

Sergeant Benjamin Creig Matthews was also requested to make a report of the incident, and filed it to Mock on January 15, 1974:

"On January 12, 1974, at 1:55 AM, Officer James Hoskins arrested Vernon Jermon Lee, a C/M/05/07/48 for Inv. of DWI. At the same time and location Hoskins arrested Elwood Charlston Finley, a C/M/12-02-51 for drunk. Both of the subjects were brought to the police station, and when they arrived the Lee subject began to curse officers and become abusive. Being supervisor in charge, I ordered Officer Hoskins to remove the Finley subject from the Officer's Room, thereby eliminating him from the incident that occurred in the Officer's Room or any complaints that might have come from it. At that time, Sgt. Mock ordered the Lee subject to sit down and quit being abusive with the officers. Sgt. Mock then turned to leave the Officer's Room, and the Lee subject left the chair in which he was sitting, as if to attack Sgt. Mock from the rear. At this time, I, Sgt. B. Creig Matthews, placed a choke hold on the Lee subject and held same until he was semi-conscious on the floor of the Officer's Room. Patrol Officer R.R. Pou was also present in the Officer's Room at the time of the incident and assisted me by only holding the hands of the Lee subject to prevent him from taking my weapon. This was the only part that Officer Pou played in the incident."

Officer R.R. Pou, of course, also submitted a statement that supported Matthews' claims with alarming detail. He concluded his commentary by stating: "In my opinion there was no force used except that which was needed."

It appeared that the event had been well defined by all those witnessing it, until Officer M.D. McCullough submitted his. Perhaps McCullough simply had more courage than the rest, or perhaps, to be objective, had only seen things differently.

"On coming into the station at 2:05 AM, 1-11-74,⁶² I heard some noise in the Patrol Room and saw Sgt. Matthews through the window as I proceeded to go onto my office. Officer Pou was at Ashley's desk booking

62 An obvious discrepancy, McCullough listed a different date of the event from the others filing reports.

Edward Ellis in. I put my spotlight in my desk and then heard a scuffle in the Patrol Room and as I turned to leave I saw Sgt. Latham come out of the Patrol Room and come into (unintelligible).... I then went into the Patrol Room and saw Sgt. Matthews and Patrolman Hoskins and prisoner Vernon Jerome Lee N/M 05-07-48, #6610, in there. The prisoner was standing against the lockers and I heard Sgt. Matthews ask him, 'Are you ready to take a Breathalyzer test now?' The prisoner then answered, 'I don't want to take it, but I don't want to be choked again either.' Matthews then asked again, 'Are you ready to take it or not?' The prisoner then repeated, 'I don't want to but I guess I'll have to.' Matthews then shouted to Latham, 'He want to take the test now!' They then took the prisoner into the Breathalyzer Room and gave him a test. I then left."

As with so many charges of police brutality, the prisoner had a change of heart and the matter was not pursued. It was not followed up within the chain of command of the Plano Police Department either, and with time, the subject was dropped.

Even the expert Dennis Price could not dig up the entire history of Creig Matthews, operating on the hasty schedule established by Files and Ireland, but the work he did was more than credible. His work revealed that if Matthews had possibly violated the civil rights of one man by choking him into semi-consciousness for the alleged purpose of having him submit to a Breathalyzer test, then he was also to confirm that this was not a solitary incident.

Price uncovered a letter written on July 26, 1978 by Bob Nordhaus, City Attorney of Plano, Texas. It was submitted to Chief of Police Duane Kinsey:

"I had another call from Creig Matthews on July 25th. He advises me that the FBI had already contacted some DPS officers involved in the incident. This is the first I was aware that there was more than one other officer. He stated there were several besides Troy Braswell.

"I learned that this incident resulted from a search made by Lt. Matthews and DPS officers whereby they apparently forcibly entered the residence of the complainant. As a result of drugs found there, they arrested another subject and later the complainant. The case was thrown out of court in Dallas because of illegal search and seizure.

"There has been no connection established with the City of Plano and

I doubt if we will become involved in this in any way. I would assume there is a possibility that DPS would represent Matthews if they are going to represent their own officers."

Files and Ireland were now convinced that Creig Matthews was not the sterling "Officer of the Year" that was being heralded in the newspaper. Other documents submitted by Price revealed an incident where Matthews had been accused by a fellow officer of drinking while on duty. People interviewed related a long succession of wrongs committed by Matthews. No, this was not the angel narc who appeared before civic groups with his message of good vs. evil.

"It's going to be tough," observed Ireland.

Files nodded. "Do we want to take it all the way?" Ireland smiled. "All the way," he agreed.

The attorneys of Tyler are a select group. They are too numerous for their own good; about 200 of them operating in the city alone. Had it not been for the oil business, many would have moved to greener pastures long ago, but the constant demand for lease agreements, wills, tax advice, and the endless cycle of divorce has managed to keep most of them comfortably busy. Each represented a classic character. Buck Files with his neatly groomed beard and acid tongue, as if he had been weaned on a pickle. Kelly Ireland and his ready smile and gregarious nature, appearing as the personification of a St. Francis of Assisi but with all the shrewdness of a racetrack tout. Weldon Holcomb, the former Smith County DA with sweets in his pocket and a smile emitting from beneath his Stetson, known within Tyler circles as "the candy man." Joe Tunnell, the able lawyer with a wide range of respect who always refused to become a part of the "in" circle of his peers; Tunnel who always seemed to be a jovial fallen angel traveling incognito. Dick Grainger, serious and down-to-earth, quick minded, the classic orator; a man seeming to have the singular purpose in life of slaying Goliaths. Huey Keeney, Jr., the born-again Christian finding conflict in the defense of guilty men, never willing to plea bargain his principles. And there was the staff of the DA's office, mostly self-made men worshiping their creators. Yes, they were to assemble a unique congrega

tion and the likes of them cannot be found elsewhere.

Within this fraternity, the news spread rapidly that Creig Matthews was not only a police officer, a narc, but was probably a "dirty" cop as well. The news, however, had come too late. The grand jury had already returned the indictments. Now, the cases would have to reach the courts and it was obvious that the information would have to be somehow used to impeach Matthews on the stand. This strategy was discussed over dinners at the Steak & Spirit; over drinks at the country clubs, and in whispers at the Petroleum Club. It would be difficult to convince a jury made up of conservative Smith Countians that the handsome narc testifying before them was as guilty of drug abuse as those listed as defendants. The local mentality was not attuned to subversion. Right was right.... wrong was wrong. The police represented what was right. Yes, it would be very difficult, but the time was now growing short. The cases were already distributed on the dockets of Judge Carrol and Judge Calhoun, and the first trial, the State of Texas vs. Kenny McDonald, was only days away. Most agreed that they would have to sit back and wait to see what the mood of the jury would be. Whatever this first jury decided could well set the standard for all the juries to follow. Cautiously, they would cast a regretful eye toward Dick Grainger. It was a subject confined to whispers in Grainger's presence, for he was to defend the second defendant. He would be the heir to the mood of the first jury.

Grainger's defendant was Johnny Allen Green, the former manager at Bora's Point 21 club. Not only would Grainger have to contend with the findings of the first jury, but he would have to defend someone who could be directly linked to the notorious Kenneth Bora. Yes, they were cautious when discussing the subject in Grainger's presence.

Grainger had worked hard on the Green case. He had poured over the law books seeking precedents and supporting cases to his posture for his client. He had made personal interviews with witnesses and had taken depositions. He had written and rewritten briefs that would comprise his approach to what could well be a hostile jury. He compiled long lists on yellow tablets of specific questions to ask Creig Matthews. He would somehow have to raise the question in the jury's mind of the narc's credibility. He would have to make it appear that Matthews was on trial, that the system was being held in question. It would not be easy, especially

in Smith County. Still, Grainger had a secret weapon, and he could smile to himself with the knowledge of it.

It was in June that Dick Grainger learned that Creig Matthews had gotten a tattoo. Late June, shortly after the tattoo had been needled into the narc's arm. On July 2, 1979, Grainger located the tattoo artist and sat in his studio, diligently taking a statement with no small degree of excitement.

"My name is Robert B. Hackney. I am 24 years old. I live at Rt. 14 ., Box 800-113, Tyler, Texas. I have never been convicted of a felony. I read, write and understand the English language. I am the sole owner and operator of Tattoo, Inc. My business is located at 111-B South-Southeast Loop 323, Tyler, Texas. My business telephone no. is 561-7925. I am giving this statement voluntarily and of my own free will.

"On Monday, June 25, 1979, or possibly Tuesday, June 26, 1979, I can't remember for sure which day, I put a tattoo of a snake on the left arm of a white male. The tattoo was a standard stencil approximately four inches long. I put the tattoo on the *inside of* his left forearm with the tail just about where the elbow bends. I have drawn a replica of the tattoo with the colors that I used on the above mentioned person. I have given the drawing to Dennis Price. Dennis Price showed me a photograph which I have *identified* as being the person who came in on the above mentioned date. He doesn't have the mustache and has cleaned up some. I initialed and dated the photograph for future identification.

"I remember that it was sometime in the morning between 10:00 a.m. and 12:00 a.m. The guy came in and told me he needed to cover up some tracks. I asked him if he got much hassle over them and he told me, 'Yes, that is why I want them covered up.' He was with a chick when he came in. She was slender and had real curly hair. Her hair was kind of reddish. He told me that the tracks were cocaine tracks. I thought that this was unusual because most of the time I hear about 'speed' tracks. My wife came in that afternoon about 2:00 p.m. and I told her about it because not too many people around here can afford Coke. The guy and his chick left a college catalog and a Coke glass at my place when they left. I took the Coke glass home and I gave the college catalog to Dennis Price. I think that one of the tracks may still be showing in one of the coils of the snake. He had a dead vein, a big black vein, usually it's hard to tell but not with him. I covered almost all the tracks with the tattoo. I charged him \$25.00 for the tattoo and

he paid me in cash. I can't remember the exact denominations of the bills. I have read the above statement consisting of two hand written pages and have been given the opportunity to make corrections where required. I certify that this statement is true and correct to the best of my knowledge."

Again, the invaluable Dennis Price had executed a coup. He had tracked down the tattoo artist and was instrumental in revealing that Creig Matthews was apparently attempting to prepare his presence for a courtroom showdown. One of the ways he would enhance his presentation would be to make certain that no renegade attorney could ask him to pull up his sleeve and reveal the long row of needle tracks.

Of the tattoo, Matthews was later to testify:

Q: Do you have a tattoo on your arm?

A: Yes, sir, on my left arm.

Q: Did Chief Hardy know you were going to put that tattoo on your arm?

A: Yes, sir, he did.

Q: Did you have discussions with him prior to putting that tattoo on your arm?

A: Yes, sir, in his office.

Q: What did you tell Chief Hardy?

A: There was scar tissue on my left arm from shooting drugs. We were about to go to trial. It was my fear that I was going to have to show my arms in trial. I told Chief Hardy I was going to get a tattoo and we discussed going to Houston to do it. I told Chief Hardy our image was to project that we were doing nothing wrong and had nothing to cover up, that I would get the tattoo in Tyler.⁶³

This testimony was among the issues Willie Hardy was to adamantly deny, and maintain his posture that he knew nothing of the tattoo prior to its revelation in court.

The statement from the tattoo artist was valuable, but Grainger knew that the tattoo could have the opposite effect. He could utilize it by

63 The United States of America vs. Willie Hardy, TY-81-43-CR, Transcript No. 2, Pg. 77.

demonstrating to a jury the obvious attempt to cover needle tracks and substantiate it by offering the testimony of the tattoo artist. Yet, Matthews could simply deny the charge, indicating that he had always wanted a tattoo, and perhaps that, in all its simplicity, would be believed by a naive jury. It would have been better to have been able to ask Matthews to raise his sleeve to reveal track marks. Now, there would be only the tattoo, and whether or not the jury would be sophisticated enough to recognize the ploy would remain to be seen. Nonetheless, it was of great concern to Dick Grainger.

It was on one of his early morning times of deep study, when the night had slipped away into the stillness of the next day, that another attorney had noticed the light in Grainger's study. The next day, the peer shook his head in amazement. "You were working on the Green case, right?" he inquired.

"Yeah," blinked Grainger, wearily.

"Why, Dick? Tell me that, will you? Why do you do it? Why do you knock yourself out for a case like this? All of the hours you're putting into it, and do you know what you're going to make out of it? You'll be lucky to average fifty cents an hour! If you get paid at all!"

Grainger smiled and nodded. "I know that," he confessed. "I'm not going to make a dime on this case. Not a dime. But I've got all kinds of clients who pay me very well. I draw their wills, manage their estates, execute their leases, file their deeds, but how often.... how often do I get the chance to represent a principle? Johnny Allen Green isn't just a kid in trouble, he's a principle. He decides whether or not a system can really work, if it can truly provide justice. How much can I be paid for that? Can I ever defend honor and ethics? How many times in my life will a chance like this come along? If I don't give my best shot to principles like these, then I will have been a failure at everything else I do."

The attorney contemplated Grainger for a moment, sensing something from the aura of Darrow in him commentary. He could only nod, as if there could be no legitimate reply. "You think you've got a chance to win this thing?" he asked incredulously.

Dick Grainger issued a rare, tight smile. "If I don't, then none of us have a chance at anything within the system. It's that important."

He reviewed the indictment, scanned the legal reference books from

his library, scribbled notes and prodded Dennis Price for any last-minute information. He practiced closing arguments and envisioned Creig Matthews before him and his expression when he would request within the courtroom that his sleeve be raised. He considered alternative responses to whatever Matthews might reply. He armed himself with an attitude of total doubt as to the narc's testimony and often pretended that he was but a member of the jury, attempting to determine what phrase or comment might best appeal to them. He interviewed Green again, and again. He wanted to memorize each detail of the young man's story, wanting to produce the panorama of the events in the imagery of his mind. He wanted to become a jurist, a defendant, a narc, an attorney, and to understand and anticipate each reaction completely.

Always, there was the spectre of Kenny McDonald before him. He tried to reason that McDonald's case involved delivery of less than an ounce of cocaine and even a conviction wouldn't bring a great sentence. At least, it shouldn't. But the spectre was joined by the memory of other cases in Smith County courts. Cases where an ounce of marijuana brought lengthy terms in Huntsville. His mind floated back and forth between the worst and best that could happen. Every case was different, he tried to convince himself. Each jury was different. But, no, that wasn't true. Juries had to be influenced by the findings of juries before them. It was the "keeping up with the Jones" syndrome. No jury would want to be identified as being more or less lenient than that before them. The McDonald case would be of immense importance, and he grew nervous with the word that the McDonald jury had just gone to the jury room for deliberations.

He found himself incapacitated during the hours of the deliberation. He could not concentrate on the matters before him that were out of the realm of Johnny Allen Green and the McDonald panel that was, at that minute, arguing the merits and detriments of the case. So much would depend on their findings, and he was strangely amused at his attitude, for he had long considered himself a seasoned veteran of his trade.

"Dick?" the secretary beckoned timidly as she entered his office, "they just called from the courthouse."

Grainger examined her face. "That bad?"

"Life," she replied. "They gave Kenny McDonald life in prison."

A life sentence for less than an ounce of cocaine? His mind reeled with the thought. This was not just a jury exacting justice, it had been vengeful, out to set an example.

"Life," he repeated, as if to himself. "I've got to take Johnny Allen Green into a courtroom where a jury has just handed out a life sentence?"

Now, the prosecutors at the District Attorney's office were elated. With the conviction of Kenny McDonald, the defense lawyers would be lining up to request plea bargaining situations. They would be like beggars, accepting whatever deals the D.A.'s office might feel generous enough to render. If they were not inclined to bargain, the prosecutors knew, they could go all out for blood. The life sentence was a mandate from the citizens of Smith County that they would not condone drugs in their midst, and that attitude, the attorneys were certain, would prevail throughout the following cases.

Johnny Allen Green was considered a routine case. It had none of the ingredients that would make it unique from any of the others. With the track record established by the McDonald jury, the prosecutors were more than confident that they were on a roll, that the conviction was but the first in a very long succession.

For Dick Grainger, a review of the McDonald case provided some interesting insights. None of Matthews' background had been introduced to the court. The defense attorney had made no attacks upon the conduct of the undercover team, and had essentially left his client to the mercy of the court. The knowledge comforted him, inspiring him with the belief that the Johnny Green trial would be different. Here, there would be a new dimension to the drug bust, an all-out effort to discredit the narc team that had been lauded as the best officers within East Texas.

Dennis Price was also burning the midnight oil. He had returned to Dallas to check out Matthews employment record. For the most part, the Dallas Police Department administrators were tight-lipped, protecting their files and records under the cloak of official confidentiality. Still, he was somehow able to recover a copy of a polygraph examination given to

Benjamin Creig Matthews on July- 16, 1969. A portion of the examiner's report stated: "Subject admitted that while a member of the Dallas Police Department⁶⁴ in May or June of 1968, he and another officer were off duty at the Fog Lounge at Peak and Bryan, where he noticed a wallet on the floor near the bar. Subject admitted he picked up the wallet and removed \$70.00 and threw the wallet away. The wallet belonged to a colored soldier."

Matthews was to admit to the polygraph examiner during this test that while working as a truck driver, he had taken several "beanies" to stay awake. The report was concluded with the examiner's observation, "This subject shows guilt reactions about taking money from other arrested persons."

Grainger placed the evidence damning Matthews on the long conference table and stared at it for a long moment. In the morning, he would tuck the documents under his arm and sit at the table before Distract Judge Galloway Calhoun. He would attempt to convince the judge and the jury that the handsome, well-groomed, much publicized undercover officer was as tainted as any defendant who might appear before them. The enormity of the task caused him to close his eyes tightly and sigh with resignation. He would be the Devil's Advocate, challenging the hallowed halls of justice, attempting to blemish the common concept that lawmen represent all that is good and overcoming the stigma firmly implanted in the typical citizen's mind that, "If he wasn't guilty, he wouldn't be sitting at the defendant's table."

The trial would be important for other reasons, as well. Attorneys within the DA's office knew the lineup on the court docket following the mundane Green case. After that, the "heavies" would be tried: Bruce Brunelli, Patrick "Cowboy" Denmark, and Kenneth Andrew Bora. It would be important to have the perfect record of convictions intact going into that group of trials. Representing the DA's office in the Green trial would be Tom Dunn, an able attorney capable of tearing a guilty defendant to shreds with rapid-fire questions. Grainger respected

64 Matthews had applied for re-employment with the Dallas Police Department.

Dunn⁶⁵ and knew that it would be difficult to introduce the questions of Matthews' character over his objections. Still, he respected Judge Calhoun even more, and felt that he could persuade the court to allow such inquires to stand. At least, he silently hoped he was right.

It was now late July. Grainger had prepared as fully as he could to defend Johnny Allen Green. In the final week of his preparation, his spirits had been lifted by rumors turning into fact that the investigative reporter for the prestigious Dallas Morning News, Howard Swindle, had been frequenting Tyler seeking details about Creig Matthews and Kim Ramsey. Some of the defendants making allegations about the narc's drug usage were to be given polygraph examinations, sponsored by the newspaper. In addition, Dr. John Spurgin, the respected political science professor at the University of Texas at Tyler had issued a courageous statement, "Except for the most hardcore rednecks who are beyond redemption, people were shocked when a 21-year-old kid got life imprisonment for less than a gram⁶⁶ of cocaine."

Yes, some things were going his way, and few things could be better than to have the inquisitive Swindle as a literary ally. Swindle was indeed inquisitive, once describing himself as being a good newsman "because, basically, I'm just a nosey sonuvabitch." It was known that he was busy interviewing drug defendants and checking with Dennis Price for any tidbits he could gain. Still, he was in the investigative stage and his presentation to the reading public would not come in time to help Johnny Allen Green.

The trial began on one of those steamy Texas mornings when the first rays of the sun give warning to the torment of the day. Grainger arrived early, waiting for his client (out on bond) to meet him in the hallway in front of the courtroom. Judge Galloway Calhoun had passed him earlier

65 As an interesting side-note, Dunn was to later enter private practice and was hired by a well-known local gambler who had been arrested for operating a game within the county. After a few days, the gambler came to Dunn asking how much it would cost to buy a judge in Smith County. Dunn replied that he would win or lose the case on its merits and did not want to discuss something so subversive. The gambler was to return a few days later and tell Dunn that he appreciated all that he had done for him, but he had found another lawyer who would "do things his way." The gambler hired another attorney and the case against him was dismissed. So much for Smith County justice.

66 Actually, Spurgin was in error. Kenny McDonald was convicted for possessing less than an ounce of cocaine.

and had only nodded, as if to say, 'we can't be friends today, we have a job to do.' Buck Files and Kelly Ireland had called early to offer their good wishes. The long jury selection process began with Grainger attempting to determine the character of each prospective juror. Had he the funds, he would have hired a psychiatrist with a computer to record the background and characteristics of each citizen being interviewed. That was the tactic used by the lawyers defending Texas millionaire, Cullen Davis. But there were not the funds and now, there was not the time. He wanted a cross-section, educated people if possible. He steered clear of rural farmers who were notorious for having preconceived ideas about law and order. He sought the compassionate glint in a matron's eye, the serious expression of one given to an analytical mind. He was inclined to include blacks, for they, more than most, had an innate feeling for injustice and a deeply-rooted suspicion of lawmen. Instinctively, he rejected the hatchet-faced spinster whose hobby of knitting was evident as she awaited her turn to be called. Knitting is orderly, precise, everything falling into place. No, she could not understand the message he was to deliver. He welcomed the round-faced man with pink cheeks and the ready smile. He was given to a liberal mind and believed in laughter. Only free men laugh.

At last, Grainger and Dunn had agreed upon the jury, a composite of Smith Countians who were registered voters, willing to serve their government in the capacity of jurors. He was satisfied with the group, knowing that they were the best he could select from those offered to him.

Slowly, methodically, Grainger stalked his prey. He moved through the witnesses carefully, preparing the foundation for all that was to come. He was the one with the hit list now, and the target was Creig Matthews. He smiled slightly when Dunn announced his next witness and pulled from his briefcase the collection of notes and documents that represented the armory of his case. The bailiff called, "Benjamin Creig Matthews... ."

As expected, Matthews was nattily attired. A three-piece suit pressed against his slender frame and his shoes were smartly polished. Matthews flashed a smile toward the jury, just as he had been trained to do. Dunn recounted the events of Johnny Allen Green's sale of narcotics and Matthews droned forth the details with expert coolness. Grainger glanced over the audience.... Willie Hardy, Ed Wagoner.... yes, they were there.

Dunn punctuated his questions with repetitions, making certain that the jury understood that this exemplary undercover agent who had sworn to tell the truth, the whole truth, and nothing but the truth, was describing to them a violation of the law committed by the youthful defendant before them. Green would testify later, telling of Matthews' drug abuse, of the time he had gone to Matthews' apartment to have the narc seek help in injecting cocaine. But that would be but the word of a junkie and the jury would demonstrate their doubts with expressions bordering on disinterest. Now, however, they beamed with the presentation of the young, courageous man before them. They noted Creig Matthews who had risked his life within the sewer culture of the city to save its children from drug peddlers. Yes, the scales of good and evil were being weighed between Matthews and Green.

Dunn finally smiled to Calhoun, nodding with the statement, "I have no further questions, your honor."

Now was the moment, the cross-examination that was to be the hallmark of all the trials to come. A Tyler attorney was later to describe the event as, "Dick Grainger doing surgery on Matthews' reputation." Grainger stood quietly for a moment, eying the witness as if he were the enemy. Slowly, skillfully, methodically, he began his questions. They started casually, dealing with minor topics, seemingly to place Matthews at ease. It was then time to bring in the big guns. Grainger introduced Matthews' former employment with the Plano Police Department. Yes, Matthews had worked for that department. He was a lieutenant working in undercover operations. The jury was impressed. Grainger hit quickly the state-sponsored investigation of Matthews and the allegations of his drug abuse even at that time. Matthews was rattled, but concealed it well. Dunn objected. Objection overruled. It was but an allegation, nothing had come of the investigation. The jury breathed easier then. Grainger hit again.... the failure to pass a polygraph dealing with stealing a wallet in a Dallas bar. Denial. Polygraphs are subject to the stress a witness is under at the time. An undercover agent is always under stress. The jury now frowned slightly. Grainger again.... the complaints of Plano citizens about Matthews' conduct. Denial. Nothing had come of such complaints. The jury became visibly nervous. Grainger poised himself with the question of

whether or not Creig Matthews used drugs. Denial. Matthews denied ever using drugs. Now was the moment. Grainger had endured Dunn's objections on each question and was thankful for Judge Calhoun's decisions overruling them. He asked Creig Matthews to roll up his left sleeve. Objection. Overruled. Matthews refused to comply. Why? asked the judge. Matthews explained that he had a tattoo and as an undercover agent, it was imperative that no one learned of the design of that tattoo or it would mark him forever within his work. The jury nodded slightly. That was understandable. Grainger smiled broadly. Matthews was now visibly shaken. The court called a recess.

In the hallway, Matthews approached Willie Hardy, complaining "Grainger's tearing me up in there! This whole thing's going to hell in a basket!"

With the reconvening of the court, Grainger did not relent. He struck harder each time at Matthew's reputation and background. He questioned his tactics and personal habits. He invited Matthews to reconsider about rolling up his sleeve. Matthews again refused, giving the same explanation to the court. Dunn was near apoplexy with objections. Calhoun remained steadfast. Objections overruled.

The "surgery" on Matthews was enough to now bring glances of doubt in the direction of the young narc from the more mature faces within the jury box. Occasional glances were cast in his direction as if they were trying to read something into the agent's face. Yes, Grainger knew, he had planted the seed of doubt very well.

The trial progressed routinely with Grainger now growing confident that he had made his impression upon the jury. The testimony of the prosecution witnesses were merely supportive of the tales propagated by Creig Matthews, and those stories had already been placed under severe scrutiny. Finally, it was his turn again. He called to the stand the tattoo artist, Robert Hackney.

Hackney was nervous. With Grainger's guiding words, however, he related to the jury all that was contained within his written statement. Yes, the man sitting at the prosecutor's table was the same man who had received the tattoo. Yes, it had been requested to cover needle marks. Yes, Hackney repeated, he was telling the absolute truth. Now, the glances of the jurors toward Matthews were no longer probing.... they were stares of

anger.

It was now almost over. Only the final arguments remained. Dunn staggered through his presentation, reeling himself with the revelations presented that day. He offered the typical theme of safeguarding the public and protecting their children. He spoke of the evils of drugs and the questionable character of someone like Johnny Allen Green who would market such substances to unsuspecting youngsters. It was a final argument highly reminiscent of that used in the Kenny McDonald trial, but this time, the situation was different.

Grainger was to rise in preparation for the final argument and did not smile at the jury. It was an unwritten rule to be friendly to a jury, but Grainger did not feel friendly. He spoke of the wrongs that could be done in the quest to eliminate wrong. He spoke of ethics and how they could be corrupted in the name of law enforcement. He spoke of a city that had utilized people of questionable character, and set them loose upon the same unsuspecting children Tom Dunn had mentioned. He spoke of the meaning of justice and of the implications of "reasonable doubt." He paused then, now smiling slightly. "It's all right to clean up your city, but you don't want to use a dirty mop," he offered.

The statement was to become a classic in legal circles for years to come. Creig Matthews was the dirty mop.

Johnny Allen Green wept openly when the jury returned to announce their findings of not guilty. He embraced Dick Grainger with a heart filled with gratitude. A portly woman stepped from the juror's box and responded quickly to a reporter's question of how they had reached their decision. "We simply couldn't convict Green on the basis of Matthews' word alone," she replied. The course had been turned. Now, there was a light at the end of the tunnel of justice. Area attorneys had a new hope, and it had been given as a gift from the courageous, diligent Dick Grainger.

By the following September, the Green trial was still the only one in which a "not guilty" verdict had been rendered. Some defendants now silently cursed themselves for their hasty actions after the life sentence given to Kenny McDonald. Four cases by that time had been tried with guilty verdicts and six other defendants had entered guilty pleas. Dick Grainger had done what no other attorney was able to do.

To the authorities within the city, the Green verdict was a blow of astounding proportions. The confidence was now gone from the ranks of the prosecutors. They would now entertain plea bargains more willingly.

Hunter Brush was to comment about the case, "There were things that got into that trial that should not have and that have not gotten into any other trials. Whether that had any effect on the jury, I don't know."

The comment brought laughter to the defense attorneys. If the exposure of Creig Matthews had not effected the decision, then what did? How could Brush be that naive? They agreed that he certainly wasn't.

Dr. John Spurgin followed the case carefully, relating after the revelations, "The thing I've heard repeated so often lately is, 'It's really hard to tell the good guys from the bad guys.' During that first trial I heard educated, responsible people saying things like, 'the end justifies the means' and 'I hope the lawyers don't find a technicality to spring these junkies.' But now there is more a feeling of 'let's take a look at our police and how this thing was conducted.

Spurgin knew Tyler well and offered the opinion that many of its people were not yet concerned about the outcome of the trial or what it revealed. "There's a temptation in this town for people to say the end justifies the means when it comes to drugs. I think the guy in K-Mart (a discount store) or out at Kelly-Springfield (a local tire manufacturing plant) is going to say, 'No matter what the cops did, let's get these junkies off the streets.'

"But if more comes out on Creig Matthews, it's going to force people to confront their ideas on drugs, law enforcement and some basic constitutional rights."

Spurgin was well acquainted with the many mystiques of Tyler, Texas, but in this instance over-estimated the people. Few were spurred to raise questions about the rights of any of the defendants, and in fact, often continued their attitudes of avoidance of any of the defendants, whether they had been victims of the investigation or not.

Yet, if Spurgin's prediction was wrong, Dick Grainger's was totally correct. As a court-appointed attorney for Johnny Allen Green, he was to have a healthy financial loss in handling the case. Five years later, he was to confirm an ancient position, however, saying, "It was worth every

penny it cost me."

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By Sunday, August 1, 1979, Howard Swindle had gathered enough data to address the subject of Tyler's drug bust. Swindle is a burdened man, buried under a phenomenal workload at the Dallas Morning News and forces himself to compromise his curse with a sense of true diligence to his efforts. He is among those classic reporters who seeks the truth.... only the truth, and fears no one who may be offended by it. As a skilled word smith, he has the ability to paint portraits within his articles, bringing the reader to visualize each event. His reputation and skill had given him a great deal of clout throughout the state, and he was feared by those within the city structure of power.

"TYLER, Texas - Dark thoughts muddled Johnny Allen Green's mind as he listened to the court-appointed attorney make a final plea to the jury, a plea Green prayed would keep him out of prison.

"The young, mustachioed Green knew the longstanding reputation of Smith County juries. The East Texans called to the 2nd-floor jury boxes didn't like drugs or the people who used or sold them. For years, they had shown their disgust in the form of stouter-than-usual prison sentences.

"He knew, too, that Kenny McDonald, indicted in the same massive undercover drug investigation that led to indictments against 121 people, had gotten a life sentence just weeks earlier.

"Green fixed his thoughts on lawyer Dick Grainger as the attorney stood in front of the jury. He listed as Grainger said his final words to the 12 strangers who would determine Green's fate.

'It's all right to clean up your city,' the lawyer said, "but you don't want to use a dirty mop.'

"Green was acquitted in a decision that stunned many of the 70,000 people who lived in the city dubbed the 'Rose Capital of the World.' Green would testify in court again, this time as a defense witness in another drug case. He would testify that the narcotics agent who spent eight months disguised as a savvy bartender's helper committed the same crimes as the 121 persons he's accusing.

"Today, the charges and counter-charges have filtered from the court

rooms, out into the restaurants and barbershops where some applaud police 'for cleaning up this mess in Tyler,' and others claim 'the cops were as bad as the kids they arrested.'

"Just as one rumor becomes old news, a bizarre incident spawns a new one. A female undercover agent's car was firebombed outside her apartment, and someone fired a shot at a probation officer assigned to investigate undercover detective Creig Matthews.

"In a move termed 'unprecedented' by one lawyer, Dist. Judge Galloway Calhoun assigned probation officer Richard Sullivan to investigate Matthew's background. Sources said Sullivan was at home alone Aug. 4 when a gunman burst through a door, fired a shot at Sullivan and ran.

"Sheriff J.B. Smith says he has a suspect in the shooting. 'It may have been a person sent to TDC (Texas Department of Corrections) by Sullivan who's out on parole,' the sheriff said. 'We don't think it's connected to this (his investigation of Matthews).'

"Earlier, a car Matthews used in his undercover operation was broken into, and the combination lock on his briefcase jimmied, papers strewn over the parking lot. Officers and defense attorneys alike receive anonymous phone calls in the middle of the night. At least two, fearing for their families, have temporarily moved them out of town.

"The aftermath of the massive April arrests - arrests that hit heavily among the higher social circles of Tyler - have split opinion and frayed long-term friendships.

"The arrests, primarily on charges involving marijuana, cocaine and methamphetamine (speed), included children of bankers, prominent businessmen and three former grand jury foremen.

" 'The district attorney and police dared to take on a problem that was whispered about at the First Baptist Church while kids were using dope in the parking lot,' said one Tyler resident. 'But depending on where people stand, it's costing a lot of friendships. It's been one-upmanship from the word go.'

"According to Green, who was acquitted last month, Matthews, a 9-year veteran and former Plano detective, smoked marijuana, snorted cocaine from rolled \$100-bills and injected cocaine into his veins while he worked undercover.

"Defense attorneys, some with more than 30 clients each as a result of the largest drug bust in East Texas history, portray the 32-year-old Matthews as a narc gone bad. They say that four days before he was to testify in court, Matthews got a tattoo to cover needle 'tracks' on his arms, that he was treated for drug abuse and he is harassing the people he arrested.

"District Atty. Hunter Brush and Police Chief Willie Hardy, however, give a different version of the slender vice detective and his female partner, Kim Ramsey.

" 'Attacking the officer's credibility is the only defense these people have got,' Brush said. 'What else can you do when you're caught with the narcotics?

" 'The guy (Matthews) you're looking at is an expert at what he does,' the prosecutor said, 'and he's probably the most proficient narcotics officer in the entire state. He was subjected to a complete physical examination. The doctor made a head-to-toe examination of him in the middle of the undercover operation.

" 'And the doctor has testified there were no indications whatsoever of tracks on his arm or any other part of his body. There is no way he could have been a 'shooter.'

"Ms. Ramsey, also a former Plano police officer, 'could go to work for anybody's police department and take anybody's polygraph test,' Hardy said. . . . "

Swindle wove his tale of the intrigues of the drug bust with expert skill, blending quotes and descriptions to create a picture of blended positions. Never biased, he presented both viewpoints with exacting purpose. He would not be accused of any such bias. Not at this point, anyway.

Swindle's article continued to describe details of the drug bust and to quote Hunter Brush's comments about the importance of the upcoming trials: "The chips are up on the table as to whether that nucleus of organized crime in this community is going to flourish or whether it's going to be killed.

"Everything's on the line now. If we don't win now, it's going to be rough. We've got to show these people they've picked the wrong place. What's happening is the public is being seduced by people (defense

attorney's) they respect."

Swindle then quoted an unidentified (at his request) attorney in Tyler who stated, "I've had some pretty harsh criticism from some people in the community. Some said, 'Yes, I know what Creig Matthews is, but the ends justify the means.'"

"The City knows they're going to come out with egg on their face if they don't get convictions on all these cases," Swindle quoted another attorney, "especially after they brought a questionable cop in and then spent \$40,000."

This comment is especially interesting. In the fall of 1979, the Tyler Courier-Times revealed the cost of the drug investigation under banner headlines, "Undercover Drug Buys Cost Tyler Almost \$40,000." The article following this declaration included such comments as: "Funds expended for the purchase of drugs during the recent undercover narcotics operation conducted by the Tyler Police Department amounted to \$39,531."

"Police Chief Willie Hardy, in a prepared statement, this morning said the monies were from the Tyler Police Department budget which is funded from the general fund of the City of Tyler."

". . . During recent weeks there has been a great deal of speculation concerning the amount and source of monies expended in the recent undercover narcotics operation conducted by the Tyler Police Department," the statement reads. "It is felt that the public has a right to know how public funds are expended and should also have the privilege of being provided correct information on such matters."

"Hardy and other police officials declined to elaborate further on the subject. . . ."

The article included the comment, "The written statement was issued through the police department's public information office."

At the time of the drug investigation and during some of its aftermath, the officer in charge of the police department's public information office was Preston Christian. Preston is a down-to-earth man of strict moral fiber. Much took place within his office that violated his principles.... so much so that he was to later conduct a secret meeting with an agent of the FBI to cleanse his soiled spirit. If the press release quoted above came from his office, then it is now wise to issue the warning that we will later

learn of how much information was often manipulated there.

In this statement, however, several comments stand out as being particularly intriguing. "Funds expended *for the purchase of* drugs during the recent undercover operation. . . ." The casual reader, not scrutinizing each word, might be led to believe that the figure of \$39,531 represented the total cost of the drug operation. Yet, it represented only the amount utilized in the purchase of drugs by Matthews and Ramsey. Even this is held in question, for on February 28, 1984, former Tyler police sergeant, Mike Lusk, whose responsibilities included signing vouchers for the distribution of funds earmarked for drug purchases, stated that he had signed vouchers totaling roughly \$75,000. Even so, if we discount Lusk's comments and view the matter from strict mathematics, several aspects warrant attention.

It must be stated here that numerous attempts were made by this author to gain information concerning the amount of drugs involved in *each* transaction so that they could be equated to the known street market value during 78-79. Each request brought either denials or silence from members of the Tyler Police Department and the Smith County District Attorney's office. Records maintained by the lab of the Department of Public Safety are not open records and my request of that agency legitimately could not be approved. The only resort left was to examine other avenues of accounting that might shed light on the true scope of the drug-purchase costs. It required a good deal of thought and reason. Finally, it was determined that the best course of action would be to review the court records and utilize the amount of restitution made by the drug defendants.

Often, upon convicting a defendant and granting probation, the court demands a fine to be paid and sometimes requires restitution - the repayment to the city of the funds allegedly expended in purchasing drugs from the defendant. In viewing the amounts of this restitution, an intricate formula was established. In all, 24 percent of the cases were reviewed and their amounts of restitution recorded. By comparing the amount of restitution to the number of offenses involved, an average cost-per-buy ratio could be established. In those cases involving chemicals (LSD, amphetamines, etc.) the average cost-per-buy was \$128.00. For cocaine purchases, the average per buy was \$257.00. For marijuana, the cost per buy was

\$125.00. The fact sheet then appears as:

79	chemical buys @ \$128 =	\$10,112.00
78	cocaine buys @ \$257 =	20,046.00
15	marijuana buys @ \$125 =	1,875.00
2	1-ounce cocaine buys =	<u>4,800.00</u>
	Total	\$36,833.00

It is known that the narcs claimed to have purchased an ounce of cocaine from Ken Bora for \$2,400 and another ounce from Brunelli and it is assumed that the cost was relatively the same. Thus, the final entry of \$4,800.

By all appearances, this total would comply neatly with the \$39,531 arrived at by the accounting firm. A mere \$2,698 represented the minimal difference between this calculation and the final sum of the bookkeepers. But statistics are like bikinis.... what they reveal is interesting, but what they conceal is vital. In this case, it is vital that one considers that Matthews and Ramsey admitted purchases of drugs from Bill McCain and Tim McGuire, although neither were included in the original indictments. This means that whatever amount was spent with them was not included in the accountant's figures, or at least is not included in this calculation. It should also be recalled that the narcs complained of being "ripped off" for \$240 by the Negro snitch in North Tyler. That amount is not listed here. In cases where the defendant was sentenced to prison, restitution was not demanded. That indicates that the major buys taking place with the likes of Mark Mayfield, Bruce Brunelli (with the exception of the 1 ounce buy), Robert Gonzales, Steve McGill and others are not included herein. All such factors would escalate the total and would exceed the \$39,531 discovered by the police department audit. To what degree this escalation would be found cannot be determined. With cooperation from the agencies involved, this issue could easily have been resolved for all. If there is to be speculation about the true amount spent on drug buys, it should be exceeded by the speculation of why so many fought to keep such facts forever undisclosed.

It was Matthews himself who was to declare upon hearing of the \$39,531 figure, "That wouldn't touch it! Good God, that wouldn't begin to touch it!"

Within the prepared statement, however, Hardy eluded to the fact that many people were now questioning the source of the funds used in the investigation. Already, rumors were flowing about mysterious private donors and it was obvious that something would have to be done to silence or satisfy the public mind. What the report evaded was the total cost of the operation.... man hours, travel, administrative expenses, and a host of other peripheral costs that would have skyrocketed the total figure to alarming proportions. Perhaps \$39,531 of it did come from the general fund of the City of Tyler, but the amounts held in speculation by the likes of Matthews, Ramsey, and Lusk are seemingly legitimate areas of concern.

Yes, the media, particularly Howard Swindle, was rocking the boat on the troubled waters of Tyler, Texas. To compound the impact of the press, Swindle wrote again, this time in the massive Sunday edition of August 26, 1979. "Agent Used, Sold Narcotics, Suspects In Drug Cases Claim." During Swindle's inquiries in preparing for this writing, Swindle had asked of District Attorney Hunter Brush if Creig Matthews would be given a polygraph test to confirm his denials of drug usage. Brush replied, "My posture has always been on anything of this nature that I'm not going to require a police officer to go take polygraph tests when the criminals they're working on say bad things about them - absent of some sort of substantiation of the truth."

Upon reading the comment, one court-appointed defense attorney seethed, "If he wanted substantiation, why didn't he have the sonuvabitch roll up his sleeve at the Green trial?"

Four days after the article appeared, defendant Michael Dewayne Watson, 26, was sentenced to 35 years in the state penitentiary for allegedly delivering cocaine to Creig Matthews.

Watson was defended by J.W. Tyner, a hawk-faced, Stetson-wearing attorney whose advocacy is breeding and raising international champion horses. He is a familiar sight, walking northward on Broadway in his Tony Lama boots, hefting a briefcase in his hand, en route to the courthouse. On the final day of the Watson trial, however, Tyner was to attempt to duplicate the coup pulled off by Dick Grainger. He was to inform the jury that Matthews and Ramsey were "... scalawags who don't live by the rules."

"If you can swallow their lifestyles, you can swallow anything," he

sneered. "These people are about as cruddy as people can be." Tyner called upon the members of the jury to issue a mandate to the Chief of Police and the District Attorney to "get people who are more believable" to conduct their future investigations.

Tyner was too late. The Grainger miracle could only be accomplished once. This time the DA's office was ready for such an onslaught. Assistant DA Chris Harrison issued the final plea to the jury, seeking a 65-year term for Watson for the five counts of delivery charged against him. It was Harrison's assistant, however, Jerry Banks, who delivered the crushing blows.

"None of you probably knew of the drug problem in Smith County," he began in tones of total understanding. "But if you had, what would you have done? Would you have gone undercover to try to find out about the problem or would you have accepted the risk to your life along with everything else to solve it?" Oh, yes, it did seem logical.

Banks knew that Matthews (who appeared as a witness against Watson) had been crucified by Grainger. Matthews' credibility was now so low that one member of the DA's staff was to declare, "He could walk under a snake's belly with a top hat on." The able Banks covered the question neatly.

"They couldn't find anyone to come down and say not to believe Kim Ramsey, so if you don't believe Matthews what do you have? You still have Kim Ramsey's testimony."

The jury could accept that line of reasoning and the result was 35 years assessed in the state's penitentiary.

Now, the defendants begged for plea bargains. Even Buck Files and Kelly Ireland were to agree that plea bargaining was the best route for most of their clients. The attitude of Smith County juries was as it had always been. Overreact.... over sentence. Every verdict had to be a lesson of some sort. Every jury had to keep pace with those before it. Yes, plea bargaining was the most efficient and the safest route. Files and Ireland were extremely successful in that campaign.

"A lot of people were to criticize these two attorneys later for the fact that they plea bargained so many cases," a local attorney was to recall five years later. "But, believe me, they grabbed at the best thing going. There just wasn't any other route."

Plea bargaining was also a convenience to the court. To have the DA inform the bench that an agreement had been reached if it met with the approval of the judge, was a far faster and more economic way of handling such a vast caseload. Plea bargain, agreement, probation, fine, case closed. Neat, orderly, and effective. At the same time, it could be listed on the records of the DA's office as a conviction. DAs are always guardians of their conviction rates.

If this method was palatable to the system, it wasn't to District Judge Galloway Calhoun. A feisty man, Calhoun had been deeply disturbed during the trial of Johnny Allen Green. He had sat upon the bench witnessing the exposure of Creig Matthews and was later criticized by the DA for having allowed testimony revealing the seedy side of the narc's past. But after the Green trial, Calhoun seriously considered a declaration that would not permit Matthews to testify in any future trial. He was so serious about the thought that he researched it in law books and, finally determined that he did not have the authority to make such a decision. Even so, it troubled him still and he called upon Richard Sullivan, an employee of the Smith County Probation Office who had a sound background in investigative work. Almost secretly, he sanctioned Sullivan to probe the background of Matthews and to attempt to determine the validity of the cases the narc had made on so many young people. Sullivan accepted the assignment and was gathering impressive data when on the night of August 4, 1979, a gunman burst through the door of Sullivan's home, fired a shot that barely missed the probation officer's head, and fled into the night. Not long after this event, Sullivan was to leave the Smith County Probation Office and find employment in the oil industry.

Judge Calhoun was not the only one wanting to investigate the matter of Creig Matthews' demeanor. The bizarre events surrounding a second probe are best described by quoting from later testimony given by Charles Carver:

Q: State your name for the record, please.

A: Charles Carver.

Q: Do you reside here in Tyler, Mr. Carver?

A: Yes, sir, I do.

Q: What is your line of work?

A: I'm a private investigator.

Q: Are you licensed by the State of Texas?

A: Yes, sir.

Q: In 1979 how were you employed?

A: I was employed as Chief Investigator for the Smith County District Attorney's office.

Q: Are you basically acquainted with an undercover narcotics operation that occurred here in 1978 and 1979?

A: Yes, sir.

Q: Are you acquainted with the fact that that operation terminated in late April of 1979?

A: Yes, sir.

Q: Shortly after the termination of that operation, did you begin to hear of allegations that Creig Matthews was using drugs during his undercover work in that operation?

A: Yes sir, I heard a lot of allegations about both of them.

Q: Did these allegations include the allegation that Creig Matthews was using drugs?

A: Yes, sir.

Q: Tell the jury what your responsibilities were in your capacity as Chief Investigator for the District Attorney's office.

A: I was responsible for preparing criminal cases and assisting prosecutors in preparing cases for trial, and as such would do investigations as I saw fit into complaining witnesses.

Q: Would you tell or explain to the jury the kind of potential problem that was presented by these allegations that you began hearing as to the conduct of Creig Matthews?

A: Should any of the allegations been provable in court, the case would have been thrown out.

Q: As a result of that, Mr. Carver, did you begin to conduct an investigation of your own into these allegations that you had heard?

A: Yes, interviewed witnesses and attempted to verify allegations that were made, yes, sir.

Q: Sometime after that, Mr. Carver, did you have occasion to have a conversation with Willie Hardy about the investigation that you had begun?

A: Yes, sir, I did.

Q: Tell the jury how that conversation came out.

A: I was told by the District Attorney, Mr. Brush, to join him and we proceeded to the Tyler Police Department and had a meeting with Chief Hardy and Assistant Chief Findley.

Q: Who all were present at the meeting now?

A: Just the four of us, Chief Hardy, Assistant Chief Findley, Hunter Brush and myself.

Q: And this was in Chief Hardy's office?

A: Yes, sir.

Q: Give us your best recollection as to the approximate date of this meeting.

A: Prior to the first trial in the first or second week in June, 1979.

Q: This would have been after, of course, the termination of the undercover operation.... ?

A: Yes, sir.

Q: and prior to the first trial that resulted from that investigation?

A: Yes, sir.

Q: What was the topic of discussion at this meeting in Mr. Hardy's office?

A: The topic was that the investigation that I was involved in as far as the background of Kim and Creig was to be stopped.

Q: Who told you to stop it?

A: Chief Hardy.

Q: Tell the jury your best recollection of the substance of what Willie Hardy told you at that meeting.

A: That he, through the police department, was aware an investigation was being conducted, and that these were Tyler police officers, that they had been through a background investigation, polygraph examination, and were suitable police officers and as such were beyond any reproach as far as the District Attorney's office was concerned as to allegations of their background and behavior.

Q: Did Chief Hardy then vouch for the credibility of Creig

Matthews and Kim Ramsey?

A: Yes, sir.

Q: Did he tell you that the allegations that had surfaced around town were false?

A: Yes, sir.

Q: What was Hunter Brush's participation in this meeting?

A: Well, initially, we both listened and I made an explanation, as I just did, as to why I was doing an investigation, and at the close of that discussion it was reiterated again that I was to stop, and Hunter Brush joined in that and told me that I was to stop the investigation.

Q: Tell the jury what Chief Hardy's attitude or demeanor was at this meeting.

A: I would say he was upset.

Q: Have you ever on any previous occasion been instructed by a police commander or police officer to stop an investigation that you had begun?

A: No, sir.

Q: Were you angry about this? A: I was very mad about it.

Interestingly, an investigator for the DA's office had independently initiated an investigation, obviously without Brush's approval, and had it terminated by the will of Chief Hardy. By this testimony, Brush timidly concurred with Hardy, leaving the investigator without an ally, not even his superior from an agency independent from Hardy's!

Two separate probes had now been silenced. Sullivan's with an errant shot in the night, and Carver's with the commands from the alliance of Hardy and Brush. The Sacred Cows of the police department were being shielded at the highest levels and it appeared successful.... at least for a while.

It was in early May when the laboratory of the Alcohol, Firearms & Tobacco Agency returned their findings of the materials discovered in the trunk of Kim Ramsey's gutted automobile. As is typical, the bureaucracies

had trouble communicating. Tyler Fire Chief Jerry Weaver had requested of the lab to determine if the material (the Handi Wipes) was the same or had come from the same cloth. The lab reported that the materials had not been cut apart from the same cloth. To Tom West, the fire inspector, this indicated that it has been, indeed, the same material. To Weaver, however, it meant something quite different. Yes, the bureaucracy was having its problems.

West had contacted Hardy with the news of the report, indicating that there was now really a problem. The lab report had indicated that the firebomb had contained the same cloth as found within Ramsey's trunk.

At this point, one is forced to return to the premise of the preponderance of evidence. Matthews and Ramsey were to testify that Hardy then called for a meeting during which he faced Kim with the question, "Kim, did you bum your car?"

She promptly denied having done so, but Hardy persisted. "If you did, Kim, just tell me and we can take care of it."

Still, Ramsey continued her denials. No matter how little the narcs thought of the chief, he was still a wily investigator. He turned his attention from Kim and looked Creig in the eye. "Creig, there's evidence that indicates it was an inside job."

Matthews smiled slightly and sighed. "Yeah, Chief," he began, "I did burn it."

Matthews was later to testify that the chief merely nodded, stating, "Don't worry about it. I'll take care of it."

Hardy now knew all that he needed to know. The incident would require another showdown as had happened with the investigation of Charles Carver. He called for a meeting at the office of Ed Wagoner, the City Manager, requesting that Wagoner, District Attorney Hunter Brush, and Fire Chief Jerry Weaver be present. He knew he could count on Wagoner, and Brush had already backed down to him once. This time, it should be even easier. As an after thought, he decided that there should be others in attendance at the meeting. The more witnesses, the better. Fire Marshall Jack Hawkins was summoned, along with Fire Investigator Glenn Weaver and the Assistant City Manager, Terry Childers. Yes, that would make things better, he surmised.

Fire Chief Jerry Weaver was later to describe the meeting by sum-

marizing, "We were concerned with the ATF report about the material Tom (West) and Glen (Weaver) found at the fire bombing scene and later in the trunk of the Ramsey car. I had asked ATF to do a special series of tests to determine if the material was the same or came from the same cloth. The report said the materials had not been cut apart from the same cloth."

Weaver indicated that Tom West received the report and read it "to mean one thing, and for a while I read it to mean what Tom thought it meant - that the stuff was the same kind of material."

Weaver later stated that the material tested was cloth "similar" to Handi-Wipes and that some similar material had been discovered in the trunk of Kim's car "the next day when they (the arson investigators) opened the trunk of the car at the wrecking yard." The investigators were reasonably certain that this material, Handi Wipes, had been used in the fuse of the fire bomb.

"Jack Hawkins (the Fire Marshal) showed be the report and asked if I had seen it. He pointed out the report was different from what Tom had first judged it to be and because of the size of the drug investigation and the fact this was one of the undercover agents' cars, we went over - I'd say in about 30 minutes or so - to Wagoner's office to discuss what we had." At this meeting, the report was shown to Willie Hardy who scanned it quickly before angrily charging, "Tom lied to me!"

Weaver later indicated that after viewing the report, Wagoner decided that it would be best to call for Tom West and have him present. Oddly, the last-minute members of the meeting, Hawkins, Glenn Weaver, and Terry Childers, left the meeting at this point, leaving only those Hardy had intended to have present in the first place.

"Brush joined us when West arrived," continued Weaver, "and went over the report with Tom and the rest of us, asking questions as he went."

Ed Wagoner was to recall this portion of the meeting, saying, "Brush questioned West sharply about the report and when Tom tried to explain an investigator must keep moving forward and take certain steps, Brush bore down on him, saying the information contained in the report did not link Ramsey or Matthews to the firebombing because it was inconclusive." Jerry Weaver was to agree with this recollection. "He (Hunter Brush)

and Mr. Wagoner both dressed Tom down and left the impression they were not happy with the conduct of the probe. I don't recall anyone saying to stop the investigation, but nothing further got done."

Both Kim Ramsey and Creig Matthews were later to testify that Hardy returned from the meeting in good spirits, telling them not to worry about the incident, that he had met with the fire inspector and had "torn his ass up."

With this event behind them, Matthews and Ramsey could now give their full attention to being star witnesses against the legion of defendants who would be facing Smith County juries. They were now more confident than ever, for the domain of the narc is boundless and his containment within the structure of the law is non-existent. It was never more evident than in that moment.

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It was on that same day that Creig Matthews had been called back to testify before the grand jury. He didn't know why, and it disturbed him. He had appeared before that body earlier in the day, and the summon to reappear was very unusual.

"I had already testified before the grand jury that morning. I was summoned back to testify again and I didn't know the reason why. I met Chief Hardy and A.D. Etheridge (assigned to the Tyler P.D. vice division) on the steps of the courthouse and A.D. had in his possession a case report from the Tyler Police Department on Tim McGuire and Bill McCain.⁶⁷ This case report was not supposed to have been taken before the grand jury because Tim McGuire was an informant and since Bill McCain was a co-defendant on the case we would have to indict our informant as well as Bill McCain. I took the case report from A.D. Etheridge and put it in my pocket and told A.D. to forget he had ever saw it. I told Chief Hardy I would handle the situation and went to the grand jury and testified."

Matthews revealed a strange sequence of events then. "I walked into the grand jury. Hunter Brush more or less excused himself from the table

67 It should be remembered that Bill McCain was the nephew of Hunter Brush, Smith County District Attorney.

and said, 'It's your ball, Creig.' ... I knew I was going to perjure myself before the grand jury I told the grand jury that the case on Bill McCain, that particular case on Bill McCain was not a prosecutable case. The foreman of the grand jury told me that the grand jury really resented me making that kind of decision. I told him I was sorry that he resented it, but I did make the decision myself."

If one is to believe Matthews, the scenario becomes downright startling. He conceals information from the grand jury and willfully exonerates Bill McCain from prosecution. In the course of this action, McCain's authoritative uncle, Hunter Brush, politely excuses himself from the proceedings, stating only, "It's your ball, Creig."

In the course of his testimony, Creig Matthews was asked if Willie Hardy had wanted him to make a case on the McCain boys.

"Yes," replied Matthews, "he expressly stated he wanted the case made on Bill, Burt and Jim McCain, all nephews of Hunter Brush." Matthews was to add that he didn't know why Hardy had taken such a hard line posture on these particular individuals. Obviously, a host of conclusions could be produced from this information, including the motives for Brush meekly surrendering to Hardy's position against the Carver investigation and joining in the opposition against the fire bombing investigation. The result is equally suggestive: Toby Fuller, the side-kick of Bill McCain was to receive probation and a heavy fine while McCain was not indicted as part of the drug bust.

Willie Hardy was to achieve all of the goals contained within such a supposition, including the alliance with Hunter Brush, and Brush's relatives escaped indictments in the midst of the largest drug bust in the history of East Texas.

Even with such speculation, several points become interesting in this panorama of the investigation. If Tim McGuire had received immunity from the office of the District Attorney, how did his name appear on the charges linked to Bill McCain? How was it that he was placed in this position of jeopardy by prosecutors who *knew* he had such immunity? The scope of the speculation can thus include the prospect that the prosecutors *did not* know of such immunity, that it *had not* been granted by their office. It can readily conclude that the immunity was promised by the duo of Matthews and Hardy, a promise illegal under the boundaries of

their given authorities.

It is even more easily concluded in this speculation that the pending indictment of a McCain would serve as a "hammer" over the head of the District Attorney, and that it could be reopened at any point, presented with fresh evidence to a grand jury. As long as that threat existed, the speculation can be expanded to surmise that Hunter Brush would be in the pocket of the Tyler Police Department. What evidence, then, exists to substantiate such a theory? Brush had backed down and had joined in the attack against his own employee, Charles Carver. Brush had joined in the effort to diminish the probe conducted by the fire inspector of the firebombing of Kim Ramsey's car. Brush had not skillfully analyzed the events and charges surrounding the handling of the Kenneth Bora case. Brush had joined in the public criticism of the handling of the Johnny Allen Green case by Judge Galloway Calhoun. Yes, there exist instances promoting the theory into a new light of suspicion.

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In the early stages of the trials, in spite of the victories over the likes of Carver and the fire inspectors, things were not bright for the power structure that had so long endorsed the activities found within the drug bust. The Green trial had ended in an acquittal, and with the liberal administration of Judge Calhoun, this inner-circle group (Hardy, Wagoner, Charles Clark, and sometimes Kenneth Findley) knew that something had to be done. Calhoun had done what no other judge had permitted;⁶⁸ he had given free reign to Dick Grainger to crucify Creig Matthews on the stand. He had opened the door for the "not guilty" verdict, and in itself, that presented a very dangerous situation when the inner-circle considered that there were more than a hundred cases remaining on the Smith County dockets.

As usual, the inner-circle held a meeting. Hardy, Wagoner and Clark. Little is known of the content of this meeting, for the only sources were those in attendance. But the testimonies to be presented later about this conference presented rationalizations bordering on the brinks of humor. .

⁶⁸District Judge Donald Carroll was later to deny defense attorneys the right to deal with Matthews' background during the course of trials taking place in his courtroom.

Charles Clark had been the former law partner of Galloway Calhoun. They had shared offices and cases and had, in the course of that relationship, learned much of each other. If anyone knew the nature of Galloway Calhoun, it was the public spirited Charles Clark. It was obviously for this reason that in the course of that meeting, Clark was dispatched to the office of Calhoun to inquire if the judge had any 'secret information' about Matthews, and to feel out his general attitudes about the cases yet pending before them. Clark was soon to return with the announcement that Calhoun admitted that he had no information concerning Matthews that was particularly privy, and that he had "no deep seated feelings" about Matthews.

If one is to be given a characterization of Charles Clark, it is equally necessary to have a profile of District Judge Galloway Calhoun. In the case of Calhoun, this becomes not only difficult, but painful, for it was well known during this period of 1978-1979 that the judge suffered through a period of affliction. Calhoun had a serious drinking problem. Howard Swindle, the Dallas Morning News editor, was to write of Calhoun in some of his unpublished notes: "The judge, on several occasions, had been known to talk to the cigarette machines at the Petroleum Club after his marathon - and frequent - bouts with Chivas Regal."

It was Swindle who also maintained that once Clark returned with the information, Wagoner called Calhoun, requesting a meeting in Clark's office. "Wagoner assured Judge Calhoun there would be plenty to drink," Swindle wrote. A time was established for the conference, and Calhoun agreed to attend. But there was much to be done before that moment arrived.

Earlier in the day, Wagoner had met with Clark privately and inquired if it would be illegal to secretly tape a conversation. Clark advised that it was not illegal.⁶⁹ Clark was later to recall this incident and placed an addendum to his advice. He claimed that he stated that it was not illegal, but that he did not think "it is necessary, there is no reason to do that sort of thing."

69 Texas has a strange law governing the taping of conversations. It is legal as long as one of the parties involved in the discussion knows that it is being taped. Of course, the person doing the taping would know it, thus the tape recording of a conversation becomes legal!

It is agreed by Wagoner and Clark, however, that the question was submitted concerning the surreptitious taping of "a conversation."

With the meeting now scheduled, Willie Hardy placed a call from Wagoner's office to the police department. He contacted Sergeant Mike Lusk, instructing him to bring to Wagoner's office a "body mike."⁷⁰ Within minutes, the obedient Lusk appeared with the device and Hardy assisted in strapping it onto Wagoner's chest where it would be concealed by his jacket. Stepping back, he scrutinized his work and grinned with the knowledge that Calhoun would never suspect that the City Manager was carrying a secret microphone capable of recording a conversation passing between them. Lusk was then given the instructions of having the recorder and then locating himself somewhere near the office of Charles Clark. Lusk would place the recorder in a vehicle and drive around the area, listening to the conversation through earphones attached to the recorder and when the reception was satisfactory, he would station himself there and record all that transpired. Again, Lusk obeyed.

Now, it was not Richard Nixon and the prestigious Watergate. It was not the President's men and the secrets of a campaign. It was not the destiny of a political system endangered by what was being done. But it was conspirators nonetheless, and the motive, to this day, remains as secretive as did that clandestine tape.

Whatever Hardy, Wagoner and Clark had hoped to gain from the taping, it became an exercise in futility. Calhoun did partake of the booze, and Swindle was to observe in his notes, "The meeting lasted until the Scotch ran out." Whether true or not remains unknown, but what is commonly believed is that Judge Calhoun made none of the statements that would later endanger his posture upon the bench. When asked what he felt should be done about the information about Creig Matthews that had been permitted into the transcripts of the Green trial, the judge adamantly maintained that the best course of action would be to do a thorough background investigation of Matthews and then lay all of the facts out before any jury hearing a case. That, if course, was not the most welcome

70 A rather sophisticated piece of equipment, this device termed a "body mike" is simply a microphone attached secretly to a person with the capability of transmitting signals to a tape recorder some distance away.

viewpoint that could have been recorded. Even so, like Watergate, what was actually said remains as one of the mysteries of the Smith County drug bust.

Ed Wagoner was later to testify that during the course of the conversation, he felt the urge to go to the bathroom. At that time, he turned off the microphone. One must wonder why, perhaps so the flushing of the toilet would not be a part of the recording? But is known that a twenty-to-thirty minute silence exists on the tapes. Certainly, Wagoner did not spend all of that time in the bathroom. No, Wagoner was to later admit that he forgot to turn the microphone back on right away and this period of time elapsed before it occurred to him that he was carrying an inactive body mike. He turned it on again and the tape resumed. So goes Wagoner's version.

The problem with Wagoner's statement is academic. A City Manager renowned for his adherence to detail, suddenly forgets to activate a microphone that is the instrument critical to his mission. The lapse of memory is simply out of character. Wagoner was often characterized as the ultimate stickler for detail, one always attuned to the task at hand. To have this period of amnesia in the midst of a meeting he considered as being so important that he would violate the most basic standards of ethics is inconceivable to many minds. That the period of silence was caused by this momentary lack of diligence is an explanation of questionable quality.

Like the infamous tape of Watergate where eighteen minutes of erased dialog existed, the Smith County tapes took the same illogical dimensions, leaving students of the incident to always speculate about what had been removed from this recorded meeting.

Five years later, Mike Lusk was to remember the details of the meeting and spoke of them with near anger. "... Hardy's opinion of Schwartz (Robert Schwartz, then Tyler City Attorney) was very low. As a lot of people's were as far as his capabilities were concerned. So, Clark was always brought in as a special counsel, I guess you might say. Always a real close friend of the department, and any time a matter came up, it was always Clark who was providing the legal advice on the deal. Pick up the phone and call Charles Clark instead of the City Attorney.

"When I was approached about the fact that Wagoner and Hardy were

very, very upset with the fact that the bottom was falling out of their playground, so to speak, at the Green trial, when he was acquitted on both counts, I was approached by Hardy and he told me to get the body mike and the body bug ready, and to meet him over at the City Manager's at a certain time. They were going to try to blackmail and impeach Judge Calhoun.

"Those words were never mentioned.... not literally.... but the word 'impeach' was. As far as the word 'blackmail' or anything like that, no. Wagoner was very cool about what he had to say, but he really didn't have a whole lot to say. But Hardy made mention of the fact that we've got a number of cases left in that court, and we can't have this at all. We're gonna' get him at his weakness, and we're gonna' go over to Clark's office.... it's already set up.... gone over.... and I understand that Clark and the City Manager were close, or appeared to be. They were very careful of how they approached me. It was almost a demand. It was a demand. You be there. As a matter of fact, there wasn't any 'or else'. . . it was just, you be there! Hardy made mention of the fact that we have to get something on him.... get at his weakness.... because it's common knowledge that Judge Calhoun has a severe drinking problem.... and we'll get him half ripped and we'll run some questions at him, and get an opinion back from him.... that'll show him to be biased one way or another and then we'll file a petition to have these cases moved over to Carroll's or Phillips' court. Initially, they didn't want them in anybody's court.... and Hardy told me this to my face.... except for Phillips. All the cases, they wanted them in Phillips' court. That was the reason the bust out was set up for the day that it was, because the grand jury was just fixing to come out of Judge Phillips' court.

"He (Judge Phillips) said, 'Now, wait a minute. I can't have two hundred and twenty-six cases pushed in here like that from the grand jury.' So they split them up between Calhoun and Carroll, with Carroll getting the biggest majority of them, I believe. And with the few remaining in Calhoun's court. After this acquittal and his rulings on such matters as Motions in Limine⁷¹ and things of this nature, and other things down the

71 A Motion in Limine is a legal process wherein attorneys attempt to gain the court's ruling to suppress testimony or evidence relating to any specific matter. In this case, the Motion in Limine dealt with the attempt to suppress testimony and evidence concerning the background of Creig Matthews.

line, they just felt that he was allowing too much garbage and trash about Creig Matthews in that trial and that he would continue to do so to get to the bottom of it and they couldn't have any part of it, so that's why they meant by catching him in a weak moment and hoping that they could.... catch him in something and then use those tapes, because Hardy made mention of the fact on several occasions, 'You don't have to use it, just have it available. What he meant by that was that he could just wave the tape in front of the man's face and say, 'Hey, remember when we got together?' He never did say that, but that's exactly what he meant."

Lusk was then asked if he thought Hardy was capable of doing something as drastic as bugging a state District Judge.

"Sure, you betcha," he replied. "Hardy explained to me that this was the City Manager's idea. That they had met and discussed the fact and we were to meet over there and put the wire on him.... the City Manager.... get him all set up and show him how to operate it. And I was to monitor it, that night when it took place, that afternoon, after work. Which I did. I sat in a car just a block away from the Citizen's Bank Building where Charles Clark's office was, and I monitored the conversation. Recorded it on tape. When it was over, I went to the office and I called the chief. 'How'd it go?' 'Fine.' He said, 'Well, bring it to me.' I said, 'Well, wait a minute.... okay, fine, no problem.' I hadn't no more than hung up the phone when a few minutes later he called me back and said there's been a change. He said, 'Take them directly to the City Manager's.... no, to Charles Clark's house. The City Manager will be there and so will I: I took them over, walked in, and the City Manager, Charles Clark and Willie Hardy were there. They were all in the dining room, drinking some wine. They offered me a glass of wine. Fine, I had a glass of wine. I took the tapes over to them and Wagoner continually asked me, 'How'd they turn out? How'd they turn out? Are they good? Are they good?' I said, 'Well, sometimes I had it fade in and out and I had to change locations. Other than that, they're okay.' 'Well, whadya' think of them?' You know, just general conversation, and I knew I was out of my league. I had no business being there. I got up and left. They had begun talking about politics and courthouse stuff, things like that and matters I didn't have any interest in and I knew I wasn't welcome. I was just doing a service for them by taking the property (the tapes) over there to them that they

wanted....

"That's the way that thing went down, and to answer your question, I think that it's very.... it's morally dishonest and it's criminally dishonest in the act that they did and I don't feel like an attorney or the City Manager had any business doing it and I'll stand up and tell anyone to this day that I think it's wrong and I told Chief Hardy that very afternoon that it went that I thought it was wrong and I didn't want any part of it."

It was almost two years before anyone would learn of the secret taping of a District Judge. "Sources" within the city/county structure finally leaked the news of the taping to the media and the June 21, 1981 issue of the *Dallas Morning News* carried the article bannered with, "Judge Bugged By Tyler Officials, Sources Say." Upon learning of the secret taping of his conversation on that afternoon, Judge Galloway Calhoun spoke to newsmen, stating, "Someone was quoted in the paper as saying I was mad as hell, and that's correct - I am mad as hell about it. Of course I didn't know the conversation was being recorded, but nothing improper was said. Generally, they wanted to know what effect the Green case was going to have on future cases.

"I consider the taping highly improper, but I am reluctant to comment about the meeting further."

With the news out that the meeting had been recorded with no less than the City Manager wearing the body mike, it was time for the inner circle to take refuge within the Three Musketeers' credo, "All for one and one for all." Wagoner was to testify that Charles Clark knew nothing of the taping taking place within his office. His reasoning was fragile, being simply, "If I implied it would be Judge Calhoun taped, that would be the only way Clark would have known." Of course, it was difficult to get around the fact that Wagoner had approached Clark on the morning of the same day of the taped meeting, asking if it would be illegal to tape a conversation secretly. But Wagoner persisted in his posture that even though he had posed the question, Clark was unaware that it was Calhoun who was to be taped. Wagoner was to compound his position with another allegation of astounding proportions. He claimed that he was "unaware until that time the tape would be recorded at a remote location with a receiver."

Charles Clark was to neatly blend his testimony into Wagoner, making

certain that it matched perfectly. He was to simply claim that he was totally unaware that the conversation was being taped at all! Yet, he was to admit that when the meeting was over, he looked at Wagoner and inquired, "Have you got that damned body bug on?"

Wagoner was to deny that he ever intended to use the tapes to intimidate Calhoun. He had only wanted to "cover himself" while attempting to learn from Calhoun if rumors that had reached the City Manager's office about Calhoun's criticisms of the local police department were true. Wagoner was to claim that these rumors had reached him through an elusive system he referred to as "hearsay." Finally, Wagoner was to claim that he never listened to the tapes until much later, when the news was out of their existence.

To build the intrigue of the event, Judge Donald Carroll was later to demand that the tapes be delivered to him for review. He was to state that the tapes were seventy-five percent "unintelligible" due to static and back ground noises. Lusk, however, who monitored the conversation and heard the tapes, was to later indicate that they were clear and totally audible. Lusk was also to confirm that the twenty-to-thirty minutes of silence was an issue of unqualified suspicion. The content of the tapes were lost forever when Carroll ruled not to enter them into the evidence of the court because he would "not dignify the contents" by doing so.

If Wagoner and Clark were telling the truth, a series of questions emerge that are deserving of review. (1) If the purpose of the tape was not that of being used as 'leverage' over Calhoun, why was the conversation taped in the first place? (2) If Hardy and Lusk assisted Wagoner in putting on the body mike and gave him instructions as to its operation, how was it that Wagoner was later not to know that the conversation would be recorded at a remote location? How did he believe the conversation would be taped? What purpose then, did he believe the body mike served? (3) If Clark did not know the conversation was being taped, who did he think Wagoner was talking about that same day when he asked about the legality of secretly taping a conversation? (4) If Clark had not suspected the conversation was being taped, what would have prompted him to allegedly inquire, 'Do you have that damned body mike on?' (5) If Clark had not known of the body mike, how would he have made this last inquiry? (6) If Wagoner did not listen to the tapes until nearly two years

later, why would he have shown such great interest in the quality of the tapes when they were delivered by Mike Lusk? That, of course, is qualified with the supposition that Lusk was telling the truth about the incident.

Yes, was Lusk telling the truth? There are certain indicators about the character of a man that need mentioning here. Once the discovery was made that the conversation had been recorded, it was only Mike Lusk who felt the need to personally call upon Judge Calhoun with an apology for his role in the incident.

"He was very receptive. He was angered. Angered by the fact that it had happened. But he was very receptive, and I feel like it was because he understood the pressure that I was under and the fact that he knew it wasn't my idea and that I was in a position that I couldn't get out of at that point.... or didn't know how to get out of. ... let's put it that way. Very receptive to me. I wanted him to know personally from me that I apologized for it, and to reassure him and let him know that I had personally heard those tapes as the incident was being taped, and to ease his mind that I didn't feel like, in my opinion, knowing both sides of it, I didn't feel like there was anything he had said that everything had been on the up-and-up and a high degree of character and everything.... as far as the judge was concerned. And I thought he handled himself very well. Knowing the fact of why the people involved were doing what they were doing. He was unaware of all that at the time, but he handled himself extremely well, I thought. I wanted him to know that."

As it would be in a court of law, one must now inquire again into the credibility of Mike Lusk. It is one thing to say that his going to Judge Calhoun to apologize represents a signal of moral courage, but the question of his truthfulness must encompass even this. One must ask, did he really go to the judge and issue this apology, or is it but an extension of Lusk's illusions. The question can be answered with the fact that when Lusk left Tyler to gain employment elsewhere, he was enhanced in that effort by a glowing letter of recommendation, signed by the Honorable Judge Galloway Calhoun.

The horrendous episode is characterized by its outlandish postures. A District Judge is secretly taped by top officials within the city structure and a former law partner who conspired with them. It is hallmarked by a City Manager who wore the body bug and claimed that he did not know the

conversation was being recorded at a remote location. It is compounded by an attorney with a trained, analytical mind who was to claim that he was asked if a secretive taping of a conversation would be legal; was dispatched to the judge's office to ask leading questions; was asked to be present at a meeting with the judge held in his own office; was present when the meeting was reconvened in his own home, and was then to claim that he did not know the meeting was being taped.

It was Ed Wagoner who was later to declare, "I abhor those who by innuendo, gossip and untruths attempt to tarnish the professional and personal reputations of public officials. . . ."

Of course, this statement was in defense of the Tyler Police Department.

Still, the wake of the revelation was not over. State Senator Peyton McKnight, one of the most influential legislators in Austin,⁷² publicly declared that, "I would fire anyone, including my brother, if I found they had taped a conversation with anyone without that party's knowledge." McKnight expressed his confusion over why the Tyler City Council had not fired the City Manager. As one knowing Smith County would suspect, McKnight received messages from City Councilmen (Glenn Taylor and Norman Shtofman) protesting his "meddling" into city affairs. McKnight was to laugh with the messages of opposition, stating, "I didn't even know Taylor was on the City Council. That's how much I meddle into city affairs."

As long as there were McKnights, perhaps there was hope for Smith County, but people of such courage were few to be found and the citizens remained silent, for that was the nature of the area and the character of its justice.

Perhaps the inner-circle would not have been so concerned if it not had been that the docket of Smith County's courts listed the Kenneth Andrew Bora trial as next on its list. This was the prime target of the

72 McKnight's influence was so great that he was later to gain many endorsements and was to seek the office of Governor of the State of Texas.

investigation and all the chips would be on a conviction here. The Green case had made a conviction less certain, and if Bora should escape conviction, the thrust of the entire drug bust would be significantly diminished.

Bora, meanwhile, had won one bout. The \$500,000 bond levied against him had been termed as "ridiculous" within the court and had been reduced to \$125,000. To post bond required fifteen percent of the total bond as payment to a bondsman, an impressive \$18,750. Still, Bora had been able to secure the money and gain his freedom. "See?" hawked the local lawmen, "that shows he has underworld connections. How else would he put his hands on that kind of money?"

The Bora case was to be heard by District Judge Donald Carroll, a nonsense judge with strong opinions. Among these opinions was that it was not proper to place an undercover officer on trial by displaying any of his character deficiencies before a jury. He had not liked what had happened in Calhoun's court during the Green trial. It was certain that it would not be repeated in his courtroom.

Bora was to be represented by a Dallas attorney, Charles Tessmer. By this time, Bora was convinced that there was nothing good to be found in Tyler, not even an attorney. He trusted no one, especially the system of justice within Smith County. His first instructions to his attorney was to seek a change of venue.... to get his case out of Tyler's courts.

On the afternoon of Monday, July 9, 1979, Charles Tessmer met in closed session with Judge Donald Carroll. Representatives of the media were called to the conference to reveal to the judge the circulation statistics of the daily newspaper, the viewing range of the local television station, the audience of the prime radio stations. All of it was to impress upon Carroll the fact that adverse publicity given in particular to Bora's case would justify his ruling to grant a change of venue. Tessmer's petition to the court would include the comment, "There exists in this country so great a prejudice against him (Bora) that he cannot obtain a fair and impartial trial of this cause in this county."

While the system of American justice is perhaps the best in the world, it leaves, nonetheless, a wide range of factors eliminated from its considerations. It is always necessary to prove to the court the magnitude of negative information flowing through the media to support a motion for a change of venue. Yet, this system does not consider those unknown

elements that are silently eroding the reputation and validity of a defendant's case. The court, for example, would never learn of the common thread of discussion upon the streets of Smith County where Kenneth Andrew Bora had already been found guilty within the general opinions. It would not be privy to the attitudes of a generation of parents who viewed him as the archvillain who had led the children of the area astray and into the dark world of drug addiction. It would never learn of the radio station manager who protested an employee's statement that perhaps there was more to the Bora case than met the eye, replying, "Oh, no, we've got to get this man off of the streets!"

At the same time, Bora became his own worst enemy. Frustrated to the point of madness with his knowledge that he was innocent, he had approached the local television station, attempting to be interviewed concerning the details of his case. In the court's opinion, this tarnished his claim that there was adverse publicity within the region. After all, Bora had attempted to add to that publicity.

Three days later, Judge Donald Carroll was to deny the Motion for a Change of Venue, declaring that pretrial publicity was insufficient to warrant relocating the trial. It would be held in Smith County.

By July 17th, the jury selection process had begun. Scores of eligible registered voters were stationed in the chambers of the District Clerk waiting their turn to be called before the bench and examined by the attorneys. Realizing now that the trial would not be relocated and Bora would have to face his "peers" within Smith County, the wise Charles Tessmer recognized the need to enlist the aid of a local attorney. Without such an ally, Tessmer knew that he would be viewed as that "high falootin" outsider by Smith County jurors. He would need someone well known to all, folksy, and with a good perception of the county's mores. That man was Weldon Holcomb, the tall, lanky former District Attorney known through the region as the "candy man." As Tessmer was suave and sophisticated, Holcomb was earthy and smiled frequently from beneath his Stetson and crossed his legs to display the leather glistening upon his sloped-heeled boots. Between the wide brimmed hat and the decorated boots, Holcomb wore a three-piece suit, the accepted attire for Smith County. To the jury, Holcomb would be "the good ole' boy." In addition, Tessmer called in a junior law partner from Dallas, Tim Finnical. A young

man with a highly perceptive mind, Finnical was capable of quickly identifying areas of weakness within the prosecution's arguments, to evaluate accurately the expression on a juror's face, or to blend his acute reasoning with the events that would be narrated within the trial.

Now there was the trio, Tessmer, Holcomb, and Finnical, each serving their distinct roles and now faced with the unlikely role of gaining freedom for the likes of Kenneth Andrew Bora.

At the onset of the hearings, Tessmer sought a postponement, claiming that there was a witness who could not be immediately located. Motion denied. With each denial, the worst fears of Kenneth Bora became stern realities. He now had lost confidence in Carroll's ability to be impartial in his case. Quickly, he requested that Tessmer submit a request to the bench that if he were found guilty, the jury be permitted to decide the punishment phase of the trial. In response to that motion, Carroll asked of the prospective jurors if there were any among them who had already made up their minds about the guilt or innocence of Kenneth Bora. One juror raised his hand. Juror discharged. Carroll then inquired if there were any among the jurors who could not consider the full range of punishment if Bora was found guilty. Two more jurors raised their hands.

The jury selection was a long and arduous process. With each prospective juror, Holcomb would squint for a moment, as if reaching into the backyard of his life and pulling forth some scrap of information that Tessmer would find valuable. She should be all right, Holcomb would whisper, her daddy used to sell moonshine back in the thirties. In this process, the defense attorney had to be doubly cautious. There was the obvious desire to have jurors who did not have teenage children at home. These would have a built-in empathy for the ancient allegation of Bora's cancerous influence on the area's youth. No, they would not be acceptable. Tessmer was distressed with the age range of the jurors, most of them being over fifty. He wondered if young people did not register to vote in Smith County. He wanted young, bright people. Professional people with that ingredient of youth that would bring a liberal viewpoint to the hearings. They were few and not generally acceptable to the prosecutors. The process went slowly, but finally, twelve faces stared from the jury box and the attorney's knew they had done all that could be done, under the circumstances.

Chris Harrison would be the prosecutor representing the office of the District Attorney. Youthful and energetic, he was an emotional attorney who zealously sought convictions. He was the type that Tessmer feared, for he could be ruthless in his pursuits, tenacious to the point of a near devious approach toward a jury. Harrison had migrated to the DA's office from Austin where he had gained a reputation of sorts for his "tantrums" that had offended some judges. Overruling his objections was likely to bring a tirade from the young lawyer, and he was dressed down more than once by judges who were offended by his tactics. At least one judge was to reportedly state that he did not want Harrison trying cases in his court again. Rumors within the system of Tyler attorneys flowed that Harrison had been "eased out" of the district attorney's office in Austin because of such protests from the area's judges. Whether true or not, Harrison was now a representative of Hunter Brush, and he had been given the task of prosecuting Kenneth Bora, the prime figure on the alleged hit list. The case was tight, that Harrison knew. He was armed with the testimony of Creig Matthews, Kim Ramsey, a host of the narc's snitches, and Mike Lust who was present at the arrest of the defendant. It could be shown that Bora had an unsavory background, certainly not the type of citizen welcome within the domain of Smith County. The arrests for porno charges in Dallas could be revealed, and that would have a devastating effect upon the puritanical Smith Countians. Also, Bora was not only charged with the delivery of cocaine, but with retaliation against a law officer as well. After his arrest, it was the testimony of a Justice of the Peace, a respected woman who first encountered Bora after his apprehension, that Bora had threatened Matthews. Yes, the case was well conceived, and Harrison felt confident that a conviction could be gained.

Tessmer, in contrast, was methodical. His finely honed sense of logic produced several areas of question. It may have been true that, Bora did not have a lily-white past, but that history had never included any known experiences with narcotics. It was unlikely, to his way of thinking, that anyone, no matter how sly, could have escaped drug charges if he had the prolonged experience with it that the prosecutors would claim. Who, he reasoned, was any more devious or professional than Creig Matthews? Yet, even the elusive Matthews' background was riddled with charges that he had experimented with drugs. No, it seemed unlikely to Tessmer that Bora

had ever participated in any transaction dealing with drugs. If the charges had been centered around the exploitation of sex films or the escapes of a winsome whore, yes, he might understand that. That might have been in keeping with Bora's tastes. But not narcotics.

To make the trial even more bizarre, Judge Carroll enforced extreme security measures with deputies stationed at the entrances and exits of the courtroom preventing anyone from entering or leaving while testimony was in progress. Carroll then presented the jury with preliminary instructions that included the observation that lawyers are "mouthpieces" for their clients and are thus partial. Accepting the position of Bora that the panel be permitted to assess punishment if he was convicted, Carroll informed the body that the charge against the defendant carried a penalty of not less than five years in prison, or up to life. Adding the typical reminder that the defendant is innocent until proven guilty, the trial was ready to begin.

Tessmer and his colleagues became aware of how much Hunter Brush wanted a conviction when Chris Harrison appeared with an aide of his own. Special prosecutor, John Stauffer had been called in from Dallas, and Tessmer wondered if it hadn't been a move to counter his "outsider" image to the jury. If so, Tessmer saw no particular danger in the strategy and found his main apprehension coming from the expressions upon the faces of the 7-woman, 5-man jury. Stauffer was to declare to the Dallas press proudly, ". . .they need a top hired gun in Tyler," to explain his participation in the trial.

The entire process was over almost before it began. On the morning of Wednesday, July 18, a court official discovered that one juror, Dextor A. Jordan, of Tyler, Texas, had given false information on his prospective juror's questionnaire. Jordan had indicated on the form that no member of his family had ever been convicted of a felony. Routine checks had discovered that Jordan's father and one of his brothers had been convicted on felony charges in a federal court in Beaumont, Texas. Both had been convicted and received five year sentences of which all but six months was probated.

Jordan was called to the witness stand by Carroll and testified that it was his feelings that if his father had entered a no contest plea in the matter, federal prosecutors would have dropped the case. At least, this

process had worked for one of Jordan's brothers. Carroll heard the statement and ruled that the juror was not qualified to hear the case and that the statutes of the State of Texas had no provision for a trial having less than twelve jurors. Carroll declared a mistrial.⁷³ With judicial compassion, Carroll publicly stated that he felt the juror had made an honest mistake, since Jordan had stated that he thought the question related only to his "immediate family."

"The court, after fully deliberating with matters before the court," said Carroll to the jury, "has no option but to reluctantly declare a mistrial. I sincerely regret not being able to utilize your service and the fact that we will not be able to proceed with the trial of this case."

After reviewing the docket of his court, Judge Donald Carroll was to set October 1, 1979 as the date for the second trial of Kenneth Andrew Bora. It was a court date that would later seem unimportant.

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While the circumstances of the mistrial did not diminish the strength of the state's case against Bora, it was nonetheless a matter of concern to the inner-circle. The problem was compounded by the allegations of many defendants that they were now being harassed by members of the Tyler Police Department and their legion of active snitches. Each had been advised by their attorneys not to discuss their case with anyone, and yet they were being hounded by representatives of the law and those beyond the circle of that authority. It was pretrial pressure brought to bear for reasons, at that time, known only to those who were instructing that harassment to be conducted. Not only were the contacts probing, but they contained definite threats that could not be condoned by defense attorneys.

With the revelation that such contacts were being made, ripples were sent through the community of the defendants, 121 strong. They started notifying their attorneys of encounters with McGuire and fellow-snitch Kit Dane Richardson. Both, they claimed had carried pistols when they approached them, telling them that they should drop their attorney, Buck

73 Actually, there is an instance wherein a trial can be held in the State of Texas with less than twelve jurors. In the event of the death of a juror, the remaining jurors are still impaneled to render a verdict.

Files, and the suggestion was made with threatening overtones. It was now becoming apparent that an effort was being made by the powers to put fear into the hearts of the defendants.

Randy Massad was one of those claiming to have been contacted by the pistol-packing Tim McGuire:

"I was contacted by Tim McGuire at my house. . ." Massad was to relate in a sworn statement. "He was in a yellow pickup truck with a white stripe down the side. He came into my house and said, 'Let's talk. He asked me if I had decided what I was going to do. He asked me if I was going to stay with my lawyer or go back with Jim (Jim Myers a/k/a Creig Matthews). I told him I didn't know. I told him this was to see what he would say. Tim told me that Buck (attorney Buck Files) had 'fucked up' because he went to some feds and had promised everybody probation. He said that Jim and them didn't like Buck and that they were going to come down hard on all his clients. Tim told me that if I didn't go back with Jim that I would go to jail. He said that since Buck had already screwed up and that once he got my money I would be gone. Tim said that he reason Jim didn't like Buck is because Buck had contacted some of his federal friends. Tim told me that the only reason he was telling me this is because he was my buddy.... Tim told me that Jim and them have the say-so. They can be rough on who they want to and easy on who they want to. He told me Jim and Karen (Karen Brooks a/k/a Kim Ramsey) sure didn't like me now.

"Tim didn't stay long; that was about all he said. He used to carry a .25 cal. pistol, but when he came to my house he had a big revolver stuck in front of his belt under his shirt. I could see the butt of it sticking out. Tim pulled it out and said, 'I got rid of the little one and I'm carrying this one for protection now.' It looked to me like a .38 cal. or .357 cal. revolver. . . ."

Massad's statement was submitted to the court by attorney Buck Files in an attempt to reveal the scope of the undercover manipulations. Not only were active informants carrying weapons, but they were now engaged in a covert effort to harass defendants.

At first, 22-year-old Randy Massad had not been indicted with the bulk of the other defendants. It appeared that he would be spared in the same fashion that Tim McGuire had been exempted from prosecution, as

a reward for his cooperation with the narcs. The original deal had been simple. The narcs had informed Massad that they had a case on Randy's brother, David. At the same time, they had made buys from Massad himself. If he wanted to have his family escape indictments, his cooperation would be necessary. He had complied and was later to state that on the night he assisted in "setting up" Royce Wisenbaker, Jr., Matthews had threatened him with a shotgun. At the same time, he was later to deny that he had placed all but one of the telephone calls to Wisenbaker, suggesting that Matthews (or someone else) had been calling, posing as him. Yet, on the day of the infamous bust out, David Massad had been charged with a single count of marijuana possession and Randy knew that the double cross had been effected. Now, he refused to cooperate in further attempts to make cases on target youngsters and on May 29, 1979, one month to the day from the bust out, Massad and his girlfriend, Julie Bond, were arrested by the narcs.

Massad may have been listed among Matthews and Ramsey's snitches, but he was not held in the same favor as the others who escaped indictments altogether.

It was 27-year-old Rodney Lynn McDaniel who was to file the second affidavit with the court revealing that, he too, had been confronted by one of the narc's snitches.

..... When we pulled into the main gate of the trailer park (South Point) I saw Kit Richardson waving at us from a silver Mustang. He was motioning as if he wanted me to stop. I pulled my van to the curb and Kit backed up and pulled his car to the curb directly in front of my van. His car was facing my van. I got out of my van and Kit Richardson got out of his car and we met in front of my van. Kit told me that he had been trying to get in touch with me for a couple of weeks. I told him that I was living in the country and no one knew where. He said he needed to talk to me. I asked him about what. Before he could tell me any more, Kit reached over and started patting me down. He told me that he was looking for a wire. I just laughed. Kit had on a pair of blue shorts and a yellow T-shirt. After he patted me down I noticed a big bulge under his T-shirt. I reached out and touched the bulge and asked him, 'What's that?' When I touched it, it felt like the butt of a pistol. Kit told me that it was a pistol. I asked him what kind and he told me that it was a .38. I asked him if he didn't

think he was in enough trouble without carrying a gun, and he told me, 'no,' that he had a license to carry a gun. Kit told me that he had been working for Creig Matthews and Kim Ramsey and that they were wanting to talk to me. He said that attempts had been made on his life and that was why he was carrying the gun. I asked him what Creig and Kim wanted with me. Kit told me that Creig and Kim liked me and that they knew that I was not as involved as some of the others. He said that they wanted to help me. I asked him what I would have to do. Kit told me that they wanted me to be a 'narc' and turn in my friends and people that I knew that were using. I told him that there was no way I would do that. He told me that I had better think about it. I told Kit that I would like to talk to them because I didn't want them against me. Kit told me that I had better not go to court or I would be convicted. He said that my lawyer, Buck Files, had been stirring up a lot of trouble and that anyone who was represented by him was going to be convicted. Kit told me that the best thing I could do would be to fire my lawyer and go to work for Creig and Kim and then I wouldn't need a lawyer. I told him again I couldn't be a 'narc.' He asked me if I had been promised that I wouldn't go to jail, and I told him no. He told me that even if I didn't they could get me. I asked him, 'What do you mean?' I told him that I was clean and that I was living in the country away from everyone so as not to be involved in the drug scene in any way. Kit told me that they (the police)⁷⁴ could stop me on a routine traffic check and drop a bottle of cocaine in my car. He told me that Creig and Kim really wanted Buck's clients bad and that they could get them if they wanted them.

"Kit kept saying that he didn't want to talk about it there, but wanted me to meet him somewhere else. He repeated himself several times. During the time that we were talking, my wife, Leann, got out of the van and spoke to Kit.... During this time she heard Kit tell how the police could frame someone.

"Kit said he wanted my phone number. I told him to give me his and I would call him when I got the time. We did not exchange numbers.... Kit asked me then if I knew that my phone was bugged. I told him no. We

74 The parenthesis (the police) is part of the official affidavit and was not added by the author.

had been talking for about 45 minutes. Kit told me that he would get in touch with me, then he left."

Of interest is how the narratives of McGuire and Richardson had the same general content, as if they had been coached in the delivery. Of equal interest is the reference within Massad's statement wherein he twice mentions, "*Jim and them*." "He said that *Jim and them* didn't like Buck.. . . "Tim told me that *Jim and them* have the say-so." Such references clearly imply that McGuire knew of authorities operating as the extensions of Creig Matthews and Kim Ramsey who shared in the plan to intimidate defendants.

With the receipt of the affidavits, it was obvious that the office of the District Attorney would have to reply to the charges. It is inconceivable to the public mind that informants could be walking the streets of Tyler, Texas with guns tucked under their belts, threatening defendants and maligning attorneys. It was none less than Hunter Brush who would make the official reply, and it was to be a classic.

"I didn't read all the garbage," Brush was to say of the affidavits, "quite frankly, I made an effort to check it (the charge that Kit Richardson had carried a weapon) out, and from what I could ascertain, it was just completely false."

When asked if McGuire and Richardson were snitches for the narcs, Brush added to the classical nature of his response. "I don't know how you're going to define that sort of thing. I can't really answer that. They're all friends. They have no official or semi-official connection with the Tyler Police Department or any law enforcement agency. They're just some young people out here in the community that responded to the friendship of the agents. They realized they (Matthews and Ramsey) were the good guys, and the others were the bad guys."

Brush wasn't foolish enough to deny that the meetings ever took place, but dismissed it with the confession that he didn't know if Richardson or McGuire carried guns or had conversations with the defendants at the request of Matthews or Ramsey.

"I can assure you," Brush said proudly, "whether they said it or not, they weren't authorized to say it by anybody involved in law enforcement. You ought to realize that, laugh it off and forget it."

Laugh it off and forget it? Apparently, the DA's office was capable of

doing exactly that. Tim McGuire was never charged with any crime and on August 7, 1979, Assistant District Attorney Chris Harrison offered to the court of Donald Carroll a Motion for Dismissal on behalf of Kit Dane Richardson. The grounds for the motion read: "Insufficient evidence to obtain a conviction." Richardson's case was dismissed.

Tim McGuire had never been charged. McGuire ranked as the number one snitch in the Matthews/Ramsey camp. Richardson was to have his charges dismissed with the endorsement of the District Attorney. Richardson was an admitted snitch. Randy Massad was not among the original defendants. Massad had reportedly sold cocaine to the narcs and had been used to set up Royce Wisenbaker, Jr. Bill McCain was to avoid indictment when Matthews himself challenged the grand jury. McCain was the District Attorney's nephew. The chain of escape from justice somehow joined with an astonishing series of coincidental relationships with narcs and officials alike.

One could speculate that the attempt to intimidate defendants having Buck Files as their attorney was but a figment of some youthful imaginations. It could be easily surmised that these two defendants had conspired to create the incidents in the same manner that many of the charges against defendants were created simply make accusations without evidence or truth. Yet, there remained other incidents of broader proportions.

Mrs. Joyce Paro had enough troubles. Two of her daughters, Cherie and Lynette, had been indicted in the drug bust. Cherie was in greater trouble than her younger sister, but with the help of the parish of the Catholic Church, Mrs. Paro had been able to post bond and gain freedom for her errant daughters. Now, she was back at her new business. A business dealing in top-quality furnishings and trappings for elite bathrooms. It had had all the promise of being a successful enterprise in affluent Tyler, but with the news of her daughters' arrests, the elite element of the area avoided her establishment and shunned her on occasions. It was obvious that the business was in trouble, and that added to her despair.

The event that was to add to her problems was related in an affidavit filed by Buck Files:

"On May 17, 1979, I had a conference with Mrs. Joyce Paro, the mother of Cherie Paro, one of the defendants named in the pleading

above. Mrs. Paro advised me that Officers Creig Matthews and Kim Ramsey and Mike Lusk had come to her place of business and talked with her on that date. The three officers told Mrs. Paro that they wished to talk to Cherie. Mrs. Paro advised them that they should talk to her lawyer. These officers said that they had attempted to talk to her lawyer, but he was not cooperating. These officers told Mrs. Paro that they did not wish to prosecute Cherie and they wouldn't have to if she would talk to them. They stated further that if Cherie did not talk to them that in court they would testify as to facts and figures against her without any concern for her character, her family or the circumstances.

"Approximately two hours *after* the officers conferred with Mrs. Paro, Cherie Paro was indicted for two offenses alleged to have occurred in February, 1979, the alleged facts of which were well known to the law enforcement officers and attorneys representing the State at the time the original indictments were returned on April 30, 1979.

"Immediately after my conference with Mrs. Paro, I visited with Hunter Brush concerning this matter. Mr. Brush was most cooperative and advised me that he would advise the police officers that they should not contact this or any client of mine concerning these cases.

"On that same date, I talked with Chief of Police Willie Hardy and indicated to him that I did not wish Tyler Police Officers to contact my clients concerning their cases. It was my understanding that Tyler Police Officers would not do so in the future.

"H. Kelly Ireland is also an attorney duly licensed to practice law within the Courts of the State of Texas. By appointment of the judge of the 7th Judicial District Court of Smith County, Texas, Mr. Ireland is representing the Defendant Jim Clements in cases styled 'The State of Texas v. Jim Clements,'¹⁷⁵ the same being docketed as Cause Numbers 7-79-20 and 7-79-21 on the docket of the 7th Judicial District Court in and for Smith County, Texas. On June 10, 1979, Mr. Ireland learned that Creig Matthews had attempted to contact his client, Jim Clements. Mr. Ireland contacted Creig Matthews by telephone on that date. In the conversation that followed, Creig Matthews stated that he knew that Clements had a

75 Records often varied on the spelling of Clements name, herein spelled as "Clements." Official court records indicated the name was actually James Clemens.

lawyer and that he had tried to talk to him anyway.

"Subsequent to this telephone conversation, Mr. Ireland went to the office of Mr. Brush and discussed this matter with him; thereafter, Mr. Ireland and Mr. Brush had a conference with Chief Hardy who indicated that the officers would not continue in this course of conduct."

The affidavit continued to 'list the confrontations already mentioned dealing with Rodney Lynn McDaniel and Randy Massad, but was to add some damning information.

"Kit Richardson is well known to have been working as an agent for the Tyler Police Department and, more particularly, for Creig Matthews since on or before June 23, 1979. This is evidenced by the following:

- A. On June 23, 1979, the person of Kit Dane Richardson was surrendered by Lamar Neal, his attorney and bondsman, to the Sheriff of Smith County. Bond had previously been set in the amount of \$20,000 (\$10,000 for each of two cases). This surrender was effectuated at 9:20 p.m. on that date. With the assistance of Kim Ramsey, Kit Dane Richardson was permitted to make a personal recognizance bond and was released ten minutes after being booked into the jail.
- B. On August 6, 1979, the indictments pending against Kit Dane Richardson were dismissed upon the motion of Chris Harrison, an Assistant Criminal District Attorney representing the State of Texas in this matter. These cases against Kit Richardson had never been called for trial and are the only cases to have been dismissed as of this date.
- C. On this date, in an article written by Janet Wilson, Staff Writer for the Tyler Morning Telegraph, Hunter Brush and Chris Harrison described a program which they say is 'standard procedure' whereby the Smith County District Attorney's Office is dismissing or reducing charges pending against some suspects in those cases where defendants cooperate with law enforcement officers.

"On July 31, 1979, while in Houston Texas, I first learned that Rodney Lynn McDaniel had been contacted by Kit Richardson. I talked with Hunter Brush by telephone. Mr. Brush assured me that Kit Richardson was not working in any capacity for the Tyler Police Department. On the following day, Dan Hurst, a lawyer associated with our firm, had a con-

ference with Mr. Brush in the District Attorney's office. Mr. Hurst was also assured that Kit Richardson was not working with or for the Tyler Police Department or with Creig Matthews.

"Tim McGuire is well known to have been working as an agent for the Tyler Police Department and, more particularly, for Creig Matthews since the early months of 1979. This is evidenced by the following:

- A. Although Tim McGuire is alleged to have participated in a number of narcotics transactions, no charges have ever been brought against him and he has never been indicted by any Grand Jury in Smith County, Texas.
- B. Tim McGuire has become a confidant and close friend of Creig Matthews and has worked for him. While testifying in the 114th Judicial District Court in a case styled 'The State of Texas v. Patrick Andrew Denmark', the question was asked of Tim McGuire: 'Have you ever smoked dope with Creig Matthews?' The Court permitted the witness to refuse to answer on the grounds that the answer would tend to incriminate him. This occurred on August 8, 1979."

Yes, the inner circle was concerned. Johnny Allen Green had been acquitted. The Kenneth Andrew Bora trial had promptly ended in a freak mistrial. Even though the circumstances of the mistrial were not damaging to their case, it would have an effect on the mind of the public. What was happening was more than obvious. The testimony of Creig Matthews was now tainted. Juries would have difficulty believing what the handsome young narc said. What was needed was supporting testimony from an unexpected source. They couldn't rely on any of their established, well known snitches. They would have to turn someone else over. A Rodney McDaniel, a Cherie Paro.. . .

The only problem with the plan was that it simply wasn't working. The defendants had somehow garnered so much faith in their attorney, Buck Files, that they ran to him with news of their encounters with the snitches and the affidavits were flowing into the courts like water. The plan wasn't working because of one principal reason.... Files himself, and his impressive rapport with his clients.

Creig and Kim could relax now. They could live in the same apartment and share the same bed without concern for the suspects. It no longer mattered that they could be linked to one another. There was no longer the subtle divisions.... Kim with the elite.... Creig with the scumbags. Now, they could relax and enjoy the moments before the trials, and the testimonies they were to give came and went quickly. They moved through their schedule easily, attuned to it and sometimes enjoying it.

To take them out of the public eye for a while, Hardy had arranged a deal where they could be 'farmed out' to the Nacogdoches Police Department in Nacogdoches, Texas.⁷⁶ There was some drug problems occurring among the students of Stephen F. Austin University and the police in that city had a need for the best narcs in East Texas. Hardy assigned them gladly, wanting to show his prize officers. He even gave them a Corvette to use during the faraway probe. The only problem with that was that the Corvette belonged to Rodney McDaniel, one of the drug defendants.

McDaniel's Corvette had been among the fourteen vehicles alleged to have been involved in the transportation of drugs, thus qualifying it for impoundment. Hearings would have to take place to determine if the vehicle could be seized by the police department and further, what was to be the final disposition of it. At this date, such resolutions had not been made. Hardy contacted Hunter Brush and inquired if the autos could be used in other undercover operations and the District Attorney reportedly stated that they could not. Matthews and Ramsey were later to testify that this news didn't deter the chief, and the Corvette was given to them for their use in Nacogdoches.

It now seemed that the drug bust had been so successful that some rewards were due. Mike Lusk was assigned to assist in the Nacogdoches operation and enjoyed wheeling the Corvette about to give evidence to the narcs alliance with the youthful crowds of possible users. The sleek Corvette became a symbol of such rewards, used for a variety of purposes... one of which was very unique.

It is the procedure of most police departments to have narcs on assignment submit to urinalysis tests from time to time. The results of these tests will demonstrate to police officials that the narcs are not participating in drug usage and can be used as evidence later if any charges

76 For the non Texan reader, this East Texas city is pronounced Nack-ah-doe-chez.

emerge of such activities. Occasionally, Matthews and Ramsey would be required to take such tests, usually administered in Dallas, about 100 miles away. In the wake of the charges that they had been users themselves, Hardy decided that the pair should have urinalysis tests and granted them the use of McDaniel's Corvette to take the trek to Dallas.

The results of these tests were to be used later in rebuttal to the charges of drug usage by the noted narcs. Always, the tests revealed that both Matthews and Ramsey were clean, that they showed no traces of drugs in their urines. Armed with such results, it would be difficult to support any claim that the award-winning narcs were users in the same class as those they arrested.

It is wise at this point to discuss the urinalysis tests and to demonstrate how easily they are manipulated. Primary among its failings is the fact that the test is effective only if administered without warning. With a 36-hour advance notification, the subject can refrain from any drug usage and the urinalysis will produce negative results. Only if it is given spontaneously, wherein the subject is unaware of its application can the test be judged legitimate. Within 36 hours of non-usage, the body cleanses itself of all traces of drugs and the subject finds it easy to pass the test with glowing results.

When asked about prior notification, Matthews was to later reveal, "We always had 36 hours notice. We took several (tests)."

Kim Ramsey was to add: "One time they sent us to Dallas and we drove the blue Corvette (McDaniel's). I guess that was consolation for having to take a urinalysis. He (Hardy) told us what doctor to go to and we reported in. They gave us our instructions and we went to the Holiday Inn or wherever it was, spent the night in Dallas and took our little jugs to the bathroom with us and turned them into the doctor the next day and came back to Tyler."

Matthews: "Any time we were to take a urinalysis, we were given notice. Like on a Monday he'd (Hardy) say, 'why don't you take a test Friday?' We'd pull up a couple of days."⁷⁷

The thrust of this testimony is that the sophistication proclaimed by

77 By "pulling up", Matthews implied that they refrained from any drug usage during that period of time.

law enforcement in the governing of their narcs is subject to variations that can be manipulated with exceptional ease. The convincing urinalysis that swayed the minds of so many citizens, was nothing more than an extension of the farce that was the great Smith County drug bust.

Perhaps the citizens of Smith County would never have learned about the illegal use of Rodney McDaniel's Corvette had it not been for a diligent Department of Public Safety patrolman who clocked the vehicle in excess of the speed limit and hailed it to the side of the road. It was listed as a blue Corvette registered to Rodney McDaniel and the citation written that night was to indicate that the driver was none other than Chief of Police, Willie Hardy.

The saga of McDaniel's Corvette was not to end there, however. While working in the undercover operation, Mike Lusk had Kim Ramsey as his passenger and decided to spin the vehicle through some loose gravel to impress a group of youngsters standing nearby. The car skidded through the gravel and spun onto the asphalt, now out of control. It struck an obstacle, causing significant damage to its fragile grille works. Upon notifying Hardy of the "accident", Lusk was informed that the repairs would have to be made from Lusk's personal auto insurance. The news disturbed Lusk, for he certainly didn't want it known that he had been driving the vehicle. But as is the nature of law enforcement, there was a way out. Lusk had a relative working at the bank where McDaniel's car had been financed. With a telephone call, it was resolved. McDaniel's damaged car would be repossessed for non-payment.

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Matthews and Ramsey knew that Buck Files was becoming a thorn in Hardy's side, but how it would be resolved had always been a question. The answer, according to Matthews and Ramsey's later statements, came when Hardy ordered Creig to plant a "bug" in the office of Buck Files. After a few days of hedging, Matthews reported back that the way the office was laid-out, it would be impossible to make the plant without being observed. There would have to be something else done.

That "something else", according to the narcs, came when Hardy then had them check out a camera from the department and instructed them

to take photos of Files taking his secretary to lunch. The pictures, he reportedly said, would then be developed and duplicated and placed in the men's room of the Petroleum Club, in churches, and other places where Files' activities would become public gossip.

"We just took the camera home and sluffed it off," said Ramsey. "Hell, Creig and I were living together. What right did we have to do something like that to someone else?"

Perhaps the statement sounds a little trite for a narc who had framed innocent people. But perhaps there were limits to what could be done within the woman's framework of what was right and wrong.

If such plans were addendums to the attempts to discredit Buck Files, they, too, were not working. Yes, the inner circle was indeed concerned. But Buck Files and his colleagues were not the only ones giving the inner circle cause for concern. Howard Swindle, the editor for the Dallas Morning News, was still blistering Tyler officials for the discrepancies he was discovering in the drug bust and the subsequent trials. If Swindle was not accusing the narcs of drug usage, he was coming damned close to it. On August 28, 1979, Smith County District Attorney Hunter Brush fired a letter to Tom Simmons, Executive Editor of the Dallas Morning News with copies going to Terry Walsh, Managing Editor and Wayne Epperson, State Editor of the Dallas newspaper. Attaching a cover letter, Brush stated thereon: "Gentlemen' Please be advised that the enclosed letter is not intended for publication. It is not my intention to publicize⁷⁸ the concerns expressed, but rather to bring them to your private attention."

The "concerns" were outlined in Brush's long dissertation on the ethics of good journalism, in contrast to Swindle's writings on good law enforcement.

"Gentlemen: Your attention is directed to two front page articles by Howard Swindle which appeared in the Sunday, August 26, 1979, edition of your newspaper, which is distributed extensively in Smith County.

In evaluating data such as is contained in these articles it is appropriate to consider the following pertinent questions:

78 The misspelling of 'publicize' was contained in Brush's letter and was not the error of the author.

"1. Who instigated the inquiry and what are their motives for doing so?

"2. Who stands to gain from the publication of this material?

"3. Who are the sources, and what do they stand to gain from the publication of the material?

"4. Who had adequate motive to misrepresent the truth?

"I assume that in all probability the Dallas Morning News is a member of the Texas Press Association and as such subscribes to the Statement of Principles adopted on June 20, 1970, by that body.

"Your attention is directed to certain principles and guidelines applicable to these two stories.

"Principle 2 recognizes that all parties to litigation have the right to a fair trial, even the State. I believe this contemplates that each party has the right to a proper trial in a court of law rather than in the press.

"This is further clarified and emphasized by Principle 3 which states that no trial should be influenced by pressures from the Press or from public clamor and that both the Bar and the Press share the responsibility to prevent the creation of such pressures. The application of these Principles to the articles in question is obvious as are their violation of both their spirit and letter.

"The rationale underlying Principles 2 and 3 is verbalized in Principle 6(b): 'Readers are potential jurors.' The impropriety of publishing such inflammatory and prejudicial material prior to the trials of those responsible for the accusations should be readily apparent to any responsible reporter or editor.

"Principle 6(c) should also prompt some conscientious soul searching by those responsible for the publication of these articles.

"Your attention is further directed to the Guidelines embraced by the Statement of Principles. Specifically they stipulate that the press must exercise good judgment to prevent release of possible prejudicial information during the pretrial stage of criminal cases when the possibility of danger to a fair trial may be great, especially on the eve of trial. The Guidelines further specify that it is generally not appropriate to disclose for publication or report prior to trial statements concerning anticipated testimony. Again, it is obvious that these Guidelines have been callously disregarded in the publication of the two articles in question.

"The violation of the above Principles and Guidelines have produced the following results:

- "1. Unsubstantiated accusations against witnesses in pending criminal cases have been disseminated to potential jurors.
- "2. The responsibility of trial courts to rule on the admissibility of defense issues in accordance with the Rules of Criminal Procedure of the State of Texas has been usurped by a member of the media.
- "3. The right of the state to cross examine the witnesses under oath under the supervision of the trial court has been abridged and circumvented.
- "4. A member of the media has blatantly utilized polygraph examinations to authenticate and lend credence to these accusations in the face of knowledge that the unreliability of such examinations precludes their use in any court of law in this state and nation, thereby circumventing judicial prohibitions against any mention of such in any judicial proceeding.
- "5. Matters which have already been ruled on by the Courts after full hearings and excluded from presentation to juries under applicable laws of this state have been disseminated to prospective jurors by the Dallas Morning News.
- "6. Highly prejudicial information has been published on the eve of two trials and during the pretrial stage of a large number of pending cases, including statements which purport to represent anticipated testimony.

"I believe it should be a matter of grave concern to the responsible personnel and owners of the Dallas Morning News that the articles appearing on the front page of the August 26, 1979, edition of their publication clearly violate the guidelines and principles set forth in the Statement of Principles of the Texas Press Association, and moreover, can only inure to the benefit of organized crime and others who profit from trafficking⁷⁹ in narcotics and illegal dangerous drugs in our state.

"I, therefore, call upon those responsible for the publication of these

79 Again, the misspelling of "trafficking" was contained within Brush's letter and is not the error of the author.

articles to respond to the concerns voiced herein by furnishing their answers to the questions posed on the first page, as well as their rationale and justification for each apparent violation of the principles and guidelines discussed. And finally, their justification or comments on the results that flowed from the publication of these articles as set forth above.

"In view of the potential adverse effect upon the lives of the citizens of Smith County posed by the actions of the Dallas Morning News I request this be given prompt attention and response so that the position and posture of The Dallas Morning News can be ascertained and further communication had, if necessary, to stabilize this very critical situation.

"Respectfully,
Hunter B. Brush
Criminal District Attorney
Smith County, Texas."

As with all major newspapers, the staff of the Dallas Morning News conducted extensive "brain sessions" prior to the publication of any article of consequence. The content of Swindle's work had been scrutinized by all the responsible parties before ever being set to type. The complaints of the District Attorney were not altogether unexpected, but brought no great amount of alarm to the newspaper. The rules and guidelines of the Texas Press Association were well known to the management, and if Brush saw their application in one light, they could easily see them in quite another. The light they perceived dealt with justice and equal administration of the law.

Six days later, however, on September 4, 1979, attorney Charles H. Clark entered the battleground between Smith County officials and the Dallas Morning News. Clark, the man who had claimed in his Motion to Withdraw from the J.B. Smith civil rights case that he had to have complete faith in a client to properly represent them, now came to the support of Matthews and Ramsey, in spite of the abundance of allegations being lodged against them.

Clark forwarded a letter to Terry Walsh, Managing Editor of the Dallas Morning News, stating:

"Dear Mr. Walsh: Why is the News working so hard for the defense of admitted drug pushers in Tyler? I, along with many citizens of this city who

applaud our police department's efforts to thwart the drug pushers, ask why?

"Our city has had a serious problem with the traffic of illegal drugs. Thanks to the efforts of our police department and its undercover agents, Craig⁸⁰ Matthews and Kim Ramsey, some progress has been made. Arrests have been made and convictions obtained. Now many of the drug pushers are pleading guilty and cases are being disposed of. The drug pushers have to be worried. There is a constant rumor that other undercover agents are working in the city.

"Drug pushers are not nice people. They do not do nice things. To catch a drug pusher, you do not go to church. You go to the clubs and other places they frequent to peddle their deadly wares. To catch a drug pusher, you have to make him think you are a drug user or otherwise involved in the drug traffic. You have to act the role and you are not playing the part of Mr. Nice Guy. Craig Matthews is one of those rare individuals who can and has been able to fool drug pushers. His ability as an actor would put an Academy Award winner to shame. Acting alone, however, is not enough. It takes unbelievable courage. Drug pushers will hurt people who threaten their very lucrative business. Craig Matthews has that kind of courage.

"In his article in the Sunday, August 26, 1979, edition of the News, Mr. Swindle mentions lie detector tests made by a 'seasoned police officer.' He states that he has challenged Tyler authorities to have their undercover officers submit to lie detector tests. Any lawyer knows that a district attorney who would fall for such a ploy would indeed be foolish. Why, because the results of lie detector tests are not now and have never been admissible in evidence in any court in this state. Mr Swindle omitted to tell the News' readers the whole truth.

"Mr Swindle also made an appointment to talk with Craig Matthews but failed to appear. No reason has been given for his breaking the appointment. Mr. Swindle very strangely comes to Tyler and spends most of his time with the drug pushers and their attorneys. He just does not

80 While Mr. Clark praised Matthews in very personal terms, as if he had personal knowledge of his character, he has the uncanny ability to misspell Matthews' first name throughout his letter.

seem interested in knowing and telling the News' readers both sides of the story. Why?

"Mr. Steve Blow⁸¹ has now taken up where Mr. Swindle left off. Mr. Blow writes about rose colored glasses and ethics and omits mentioning that since the Green 'not guilty' verdict there have been three straight 'guilty' verdicts based on the testimony of Craig Matthews and Kim Ramsey. The failure to mention this information, in my opinion, was plain dishonesty.

"The pushers, by the way, according to Mr. Swindle and Mr. Blow, do not deny being pushers. They just complain about Craig Matthews not playing fair. I wonder how many drug addicts think their pushers have been fair to them.

"The defense of the drug pushers is obviously well financed. Why not? Drug pushing is a lucrative business. Mr. Swindle and Mr. Blow appear extremely impressed with these pushers. I wonder why?

Sincerely yours,
Charles H. Clark."

The second complaint stemming from Tyler within a week brought editors Terry Walsh and Wayne Epperson together. Outlining the scope of the complaints to Swindle, they requested a written explanation and reply to each charge. On September 7, 1979, Swindle finished an inner-office memorandum to be circulated only within the newspaper management staff.

"1. From my viewpoint as the reporter who wrote these stories, The News is not working 'so hard for the defense of admitted drug pushers,' but rather working hard to expose two law enforcement officers who apparently have committed more felonies than the people being sent to prison. We're not writing about two law enforcement officers who broke the speed limit. We're writing about law enforcement officers who allegedly used drugs, sold drugs and committed perjury.

81 Steve Blow, staff writer with the East Texas Bureau of the Dallas Morning News, wrote articles about the drug bust while Swindle was on other assignments. Staff writers Bill Deener and Ralph Frammolino also wrote stories concerning the bust for the Dallas Morning News.

- "2. As to Mr. Clark's perceptive comment that 'drug pushers are not nice people', I certainly would have to agree. I would think the situation would be even more aggravated if the drug pusher and the drug agent were the same person.
- "3. During my research in Tyler, I found nothing that would substantiate Mr. Clark's claim that Creig Matthews has 'unbelievable courage.'
- "4. Mr. Clark implies in his letter that the district attorney declined to allow polygraph examinations of the two officers because 'lie detector tests are not now and have never been admissible evidence in any court in this state.' Newspapers, fortunately, are not bound by the admissibility of evidence. The district attorney, in a conversation with me, termed the polygraph 'a fine investigative tool,' and admitted he frequently had used them in the past.
- "5. Mr. Clark's statement that I made an appointment to talk with Creig Matthews, but failed to appear is in total conflict with the facts. Fact: Over a three-day period, I made repeated efforts to contact Matthews and Ramsey in Austin, where they checked into a motel under yet another alias. Wayne Epperson,⁸² as a matter of fact, put Donnis Baggett in a 'hold pattern' for two days so that he could accompany me to Austin when and if I was able to locate the two officers. Both Epperson and Baggett were present when I made several of these unsuccessful attempts to locate Matthews and Ramsey. Fact: I spent 45 minutes with both officers in Chief Willie Hardy's office prior to publication of the first story. Chief Hardy was there along with Sgt. Mike Lusk and Dist. Atty. Hunter Brush. (Fact: I spent nearly seven hours that same day discussing the situation with Brush). Fact: Wayne Epperson and I used our Labor Day holiday to drive to Tyler where I visited for nearly two hours with Ramsey, Matthews and one of their informants, Tim McGuire. Fact: Matthews phoned me Wednesday (9/5/79) and told me he was coming to Dallas with the medical records I had requested. I changed my entire schedule, and drove to North Dallas where we were to meet. Matthews did not appear, and did

82 Wayne Epperson, State Editor for the Dallas Morning News.

not phone to cancel or explain. Again, man-hours that could have been used productively were wasted in an attempt to meet with Matthews.

- "6. Mr. Clark, however, is accurate in stating that I spent a lot of time with drug pushers and their attorneys. I would think that any responsible reporter would take the time to get both sides of the story.
- "7. And, finally, I am stunned that Mr. Clark, especially considering the fact that he is an attorney, made the following statement: 'The pushers.... do not deny being pushers. They just complain about Creig Matthews not playing fair.' As an attorney, surely Mr. Clark isn't ignorant of constitutional rights or of entrapment statutes. There also are statutes that prevent the sales, possession and use of controlled substances - statutes that do not exempt law enforcement officers. Mr. Clark appears to be an advocate of the theory that the end justifies the means, an attitude that should be unforgivable for an attorney.

Howard Swindle
State Desk."

Apparently, the comments of Swindle appeared more logical than the complaints of Charles Clark and the management of the Dallas Morning News supported their staff writer⁸³

The assault upon the editors of the Dallas newspaper had failed. It was obvious that Swindle would continue to be a thorn in the side of Tyler officials and Matthews was later to state that Hardy seethed with the thought of the nosy reporter probing about the domain that was considered private within the chief's concepts.

Not long after the failure of the letters to have any impact upon the management of the Dallas Morning News, Howard Swindle received a telephone call from Texas Ranger, Stuart Dowell. Dowell, a cigar-smoking lawman with a stem approach to law and ethics, as if they were synonymous, spoke quickly, but with a harsh emphasis. Swindle was to be

83 Swindle is sometimes referred to herein as an editor, but during this period had not risen to that rank. He became Deputy City Editor for the Dallas Morning News in mid1980.

very cautious and was to keep a close watch on his automobile. A plot had been hatched to plant cocaine in the reporter's car. Once done, Dallas lawmen would be called and Swindle would be arrested for possession⁸⁴ Swindle was fearful with the news, but thanked the lawman for the information. Yes, he would be extra careful about all things.

Of the incident, Swindle was later to write in unpublished notes, "Chief Hardy wasn't pleased with the headlines in the 400,000-circulation newspaper that implied that his narcs - and his reputation - might be dirty. Once again, he came up with a plan, a plan to stash cocaine in the reporter's car while he was in Dallas. If it were done in Dallas, Hardy reasoned, the reporter couldn't claim he has been framed by Tyler law enforcement. The reporter's credibility, once it was revealed he had been arrested on cocaine charges, would be destroyed. Surveillance of the reporter, however, failed to give Hardy's informants a chance to plant the drug. "

It was now apparent to the management of the newspaper that the officials of Tyler, Texas were doing more than merely complaining. The boys in East Texas played rough.

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By now, a snowballing effect was taking place. Attorneys were complaining that their clients were being intimidated by law enforcement officers and snitches bearing guns. A prestigious Dallas newspaper was dissecting the county's system with uncanny precision. Rumors about the conduct of Matthews and Ramsey were now becoming open speculation on the streets of Tyler. Green had been acquitted and the Bora trial was reset after a mistrial. Hunter Brush was perplexed. Nothing seemed to be going right. He called Willie Hardy. Shouldn't there be some other

84 A controversy rages over who actually tipped Swindle off about the plot to plant cocaine in his auto. While Dowell admits that he was the one calling Swindle, Creig Matthews adamantly claims that it was, in fact, he who informed Swindle of the plot.

approach to things? he inquired. Wouldn't it be wise just to sit back and let things happen and stay out of the picture for a while? Play things down, keep a low profile on everyone's part....

"Look, Hunter," snarled Hardy, "I drive the train. Once in a while, you toot the whistle, but I drive the train."

"Being innocent has one particular disadvantage. In innocence, a man is never prepared to defend himself. He does not establish an alibi to protect his future, nor does he have essential information concerning the crime of which he is accused. He is hampered by the astonishing fact that he is totally innocent, and in that, he is most certainly damned."

Dr. Sam Sheppard

BORA, BETRAYALS, AND BLOOD

It was now obvious that Kim and Creig would have to find a residence other than the apartments at Strawberry Ridge. It was certain that they would have to be kept conveniently near for their long succession of court appearances, but it was hazardous to remain at the apartments where every drug defendant knew of their whereabouts, their habits, the descriptions of their autos, and of their true identities. Any of those they had led before the grand jury would have reason to take retaliatory action against them, and they concluded that the only solution would be to find another place to live within the area. For a while, they took a room at a local motel, but that was not only expensive, but tremendously boring. Television and sex can sustain one only so long and then it is time to consider more responsible measures. Yes, they would have to find another place to live.

Tim McGuire was living in a mobile home on Tyler's Shiloh Road at the South Point Mobile Home Park. Within the park, McGuire learned, Mitchell Frazier was offering his mobile home for sale. All that was required was a down payment of \$1,000 and a sales contract between him and the buyer. McGuire informed Kim of the bargain, stating that it would be a good investment and there was the added advantage that they would practically be neighbors. The mobile home was in relatively good condition and was a sound deal as mobile homes went on that day's

market. More than that, the location of the home would be a difficult and unlikely address for the defendants to detect. There was a good vantage point within the park where incoming traffic could be viewed. Yes, it would provide much better security for the narcs than they could ever find within an apartment or a motel.

Difficult times were now upon Matthews and Ramsey. No longer could they flush out a deal and secure a thousand dollars with ease. The drug connections had faded and they were the last anyone in the region would consider in a quick-money deal. Still, the owner wanted a thousand down and Kim made a hasty trip to Dallas to borrow \$900 that she combined with a \$100 personal check made out to Mitchell Frazier. The deal was concluded.

McGuire's recommendations hadn't been the final factor leading to the purchase, however. There was one outstanding feature of the mobile home and the park that had the greatest appeal to the narcs. Shiloh Road was the dividing line of the city limits of Tyler, Texas. The mobile home would be in the jurisdiction of the Smith County Sheriffs office, and Matthews and Ramsey trusted Sheriff J.B. Smith a lot more than they did Willie Hardy. Kim Ramsey had signed the purchase agreement and smiled. At least, she had a home that she could call her own, regardless of its stature. It was September 12, 1979, a date she thought she would long remember.

Early on the morning of September 14th, Tim McGuire arrived at the Strawberry Ridge apartments with his yellow pickup truck. With his help, Matthews and Ramsey would transfer all their belongings to the newly-purchased mobile home. The trio was cautious to take differing routes on each journey to and from the mobile home. Always, they peered into their rear-view mirrors for signals that anyone might be following them. Once, they paused beside the road for no particular reason, just making certain that traffic behind them flowed by without slowing to determine their destination. When they were certain they were not being followed, they continued on their way and delivered the furniture, load after load, to the mobile home. As they moved their belongings into the mobile home, they kept a wary eye on the driveway of the park, making certain that no one was observing their actions. Among their belongings was a briefcase containing marijuana and a supply of cocaine.

McGuire had helped all he could. The remaining task was to arrange the furniture within the mobile home, and that was something only the preferences of Creig and Kim could dictate. Anyway, he was expecting his girlfriend, Paula Green, to arrive soon and he departed amidst the thanks from his narc friends to return to his mobile home.

To make room for the long two-piece sectional sofa, the plaid sofa within the mobile home was moved outside and placed to the left of the door. Inside, the sofas were arranged attractively in a corner of the living room with a long, starkly grained wooden coffee table in front of them. A hanging lamp swung over the corner, much the same as did a small incense burner dangle from beneath a cabinet near the sink in the kitchen. Kim hung her "Rookie of the Year" plaque on the wall over the sofas. Yes, it would be a comfortable place in which to live.

It was shortly before eleven that night when Matthews and Ramsey decided they had done all they could do and would have to complete their tasks the following day. Indeed, they had done much. Some of the finer details had even been completed, such as Creig taking the racks from the refrigerator and hosing them down outside. The place was still in disorder, Kim could readily conclude, but it would have to wait until they had some rest, for they were now very tired.

Creig split a bottle of beer between them, pouring it into styrofoam cups and placing them on the coffee table. The television droned forth with its cops-and-robbers format that the narcs found disgustingly amusing. The swag lamp cast a glow upon the room and all was at peace. The moment was relaxing, and Kim soon found herself beginning to doze as she sprawled upon the sofa and in her final glance, she saw that Creig was sound asleep on the other portion of the sectional.

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Kim Ramsey slept. She slept with that easy flowing slumber that was meant to entertain dreams. Yes, perhaps she was driven to dreaming by the experiences of those days. Perhaps she would dream of the testimony and the trials. Perhaps she, in her dreaming, recounted the time long ago when she had testified in a drug trial in Collin County. The defense attorney had riddled her with questions, but she had held firm in her tes-

timony. "Isn't it true," he queried, "that on one occasion you attended a party where you climbed on top of a table and proceeded to perform a strip tease dance?" That time, her answer had been true. No, she had never done such a thing. She had never considered doing such a thing. The experience disturbed her so much that she returned to her home that night to compose a short poem entitled, "To The Death Of My Idealism." Never again would she be naive on the stand. From that point on, she would be tough and calculating.

Yet, perhaps she dreamed of the testimony within the current trials. The testimony of lies and deceit. The lies she had told. The lies Creig had told. The lies Mike Lusk had told. The entire collection of lies that could be measured in the years of human life to be expended behind prison bars. She could surely have dreamed of her expertise while serving as a witness. She had learned all the tricks that would influence a jury and convince them that this trim young lady knew how to present the truth. It was not enough to respond to a question, she knew. It should always be qualified. "Yes, I recognize the defendant as the man I purchased cocaine from on the night of March 31st." That would have seemed to be enough, but not in the style of Kim Ramsey. "I remember him because on that same night he made advances toward me. He wanted me to go to bed with him." Yes, there was always an impact with such astute observations. Every woman juror knew that such an event would have been indelible upon the brain. Yes, she could have dreamed a prideful dream of her prowess as a witness.

Perhaps it was part of the dream. The sensation that something was toying with the loose strands of hair about her forehead. Automatically, she brushed at it with her hand and stirred slightly. But it was not a dream. Whatever it was that had touched her hair now tapped hard against her forehead and her eyes opened quickly. Above her was the long window rising from behind the sofa to within inches of the ceiling. The window had been a selling point. Kim liked to be able to have sunlight and to look outside. Now, her eyes focused upon the long object protruding through the window and she moved cautiously away from it, as if it were an invader of death. She moved to a standing position, blinking hard to convince herself that the vision was real. The object followed her slowly, long, metallic and shiny. Twin holes peered at her as eyes of doom from the end

of the object and she felt the fear rising within her chest. She stepped back, moaning a long, " Ohhhh..... at the sight of the muzzle of the double barreled shotgun. Still, the weapon focused upon her, chest-high.

The sound of Kim's cry of anguish caused Creig Matthews to be instantly awake. He was now accustomed to sleeping with total awareness. He was attentive, even in sleep, to every sound and motion around him. He could ill afford to be otherwise. His instincts were honed to a strange precision and the tone of the woman's voice subconsciously convinced him that a crisis was at hand. His mind worked quickly. Before going to sleep, he had left his police-department-issued shotgun leaning near the end of the sofa. His eyes darted from Kim to the barrel of the shotgun and his trained mind recorded its characteristics. It was bright and shiny. He could detect the rib that ran the length of the weapon, separating the barrels. He spied the small B-B that served as the sight. His mind recorded every detail as he moved quickly toward the shotgun that was his only promise of retaliation. His body rolled from his prone position, almost as if slow-motion, his body reacted to the threat. Now, he saw with terror, the shotgun barrel was moving toward him quickly and as he extended his arm to reach his weapon, he could see the flame lick from the muzzle. He felt nothing. Still, he sought to reach his weapon and glanced again toward his assailant's position to see Kim Ramsey lunge forward to grasp the barrel and attempt to dislodge it from the gunman's grasp. The struggle was brief, Kim wrestling with the metal barrel and reaching forward with her foot to kick out the window where the assailant stood outside the mobile home. "You son of a bitch!" she screamed.

Even as the petite woman struggled to control the weapon, the shotgun again moved toward Creig Matthews. Again, he saw the blaze of fire and heard the echo of the blast within the confines of the home.

His own shotgun was now in his hands. All there was to do was to activate it by jacking a shell into the chamber. His right hand moved forward to perform the task and Matthews felt it fall limply at his side. In that moment, he could not understand why a portion of his own body would not respond to the simplest of commands. He could not raise his arm and the panic grasped him again. In his helpless state, the gunman could fire at will. He was at the mercy of whoever it was beyond the window, and the thought terrified him. Quickly, he moved his sight to the window to see

that it no longer presented the threat. The barrel of the shotgun had vanished. His mind now registered the sound of Kim's voice screaming. Perhaps the din of the blast had prevented him from hearing her at first, but now he could detect her frantic cry, "Creig, give me the damned gun!"

She jerked the weapon from his grasp and he realized for the first time that he was now upon the floor. He had rolled off of the sofa and was now strangely without the basic power to reason. He wanted to take the time to understand how he had gotten upon the floor, but the thought was too ridiculous. He could observe things and react to them, but it was not in the sense of a total reality. He could see Kim violently pushing away the sofa to reach the plug that would extinguish the light from the swag lamp. He saw her turn the knob on the television. Now, there was only the light from the hall and the bedroom, and he shook his head quickly, as if in an attempt to regain his reasoning.

Somewhere in the course of the events, he had heard Kim fire three rounds from the shotgun through the living room window where the assailant had stood. Yes, he could remember that. That was before she had turned out the light and the television, but he could not be certain of the sequence of all events. His eyes now moved toward the arm that would not obey his commands. He was beginning now to feel odd sensations from his wrist and the area above it. With his good hand, he moved the left arm upward and gazed upon it. Amidst the fragments of bone and flesh, he detected the veins spewing forth rich, red blood. His fingers were already swollen and blue. A gaping hole existed where his skin had been and large portions of his flesh had been gouged away by the cluster of pellets. Somehow, it did not appear as a hand and a wrist. It resembled an illustration from some medical encyclopedia. He could not bring himself to rationalize that it was, indeed, his arm. No, it was what used to be his arm.

Kim stirred him back to reality by shoving the shotgun against his left shoulder and resting the barrel upon the end of the sofa. "You cover the door and window," she whispered.

"Okay," he responded weakly.

"Can you do it?"

"Okay. I said okay!"

Slowly, Kim moved toward the sofa where she had been sleeping and retrieved her service revolver from the floor. Crouching, she moved down the hall where she turned out the light and then toward the bedroom where she clicked the switch and cast the interior of the mobile home into darkness. Silently, she moved back to the door. "Is it clear?" she asked with a throaty softness.

"Yeah, it's clear," Creig responded.

"Okay," she said and shoved her right palm against the door, forcing it open against the hot summer air. Glancing about fearfully, she aimed the service revolver into the air and fired four times, calling for someone to help. Quickly, she jumped from the home and ran toward the main driveway in time to see the twin headlights turning from the driveway of Tim McGuire's residence. The car moved quickly toward her and she recognized it as the one belonging to Paula Green, Tim's girlfriend. "Creig's been shot!" she screamed. She waved her arms in gestures of urgency as she watched McGuire leap from the car with his shotgun in his hand. "Go get some help!" Kim commanded of Paula, "but come back!" They watched as Paula skidded the vehicle from the driveway onto the asphalt and raced toward the exit of the park.

"We heard the shots," Tim was explaining. "I knew it had to be down here! How's...."

Tim's voice was interrupted by the report of a shotgun blast from inside the mobile home. Kim muttered a frantic, "Oh, shit!" and raced toward the structure, her pistol ready within her hand. Quickly, she jumped into the home, her pistol extended forward in search of an assailant.

"I heard a noise outside," Creig muttered. Kim noticed that he had crawled down the hallway, dragging the shotgun behind him. "I fired to scare them off," he explained.

She turned him over roughly, probing his body for signals of the wounds. "What the hell you doing crawling down the hall?" she scolded. "Back door," he groaned. "Wanted to watch the back door."

"You just lay there," she commanded. "Tim?"

McGuire had remained outside as a precaution, wanting to be certain that whoever Matthews had fired the shot at would not return. "Yeah?" he called.

"You keep that gun handy and watch the front door, huh?"

Kim pushed herself from her kneeling position beside Creig and repeated her order for him to remain quietly upon the floor. Quickly, she moved to the bedroom where she pulled the pillowcases from the pillows and returned to twist them about his wounded arm as a tourniquet.

"It's going to be all right," she said comfortingly. "Paula's gone to call the ambulance and it's all going to be all right."

The groaning of the door frightened Kim and she reached for her service revolver when she saw the face of Tim McGuire peering inside. "Is he okay?" he inquired softly.

"Just watch the damned door!" snapped Kim.

McGuire's eyes widened with the sight of the blood forming stains upon the floor and the pillows of the sofa. He spied fragments of flesh riveted to the wall by shotgun pellets. "Oh, Christ!" he groaned. "Jesus, Kim...."

"Just watch the goddamned door, Tim!" she screamed.

McGuire obeyed quickly and placed his shotgun in a ready position within the crook of his arm. Slowly, he walked a few steps from the mobile home, slowly forming a thought within his mind. In the course of moving into the home, Kim had rented a "Do-It-Yourself" truck that was now parked in front of the dwelling. McGuire now moved cautiously toward the vehicle, listening for any suspicious sound. Cautiously, his weapon pointed the way as he pushed the latch to the rear of the truck and allowed the door to swing open. He sighed with relief to find that no one was hiding within it. Now, he moved slowly back to his post and stood on tip-toe hoping to see the glint of the rotating red lights of the ambulance.

It was difficult now to Matthews to stay awake. His eyes opened and closed as signals that he was alternating between the conscious and unconscious state. When sleep invaded his mind, he found himself reliving the events of but a few minutes before. His mind recorded every movement, all sounds, and tabulated a complete register of every happening. Somehow, he recalled that Kim had shouted, "You son of a bitch!" But she had said more than that, and he permitted his mind to accurately recall each syllable of her cries. Yes, Kim had also screamed, "It's that goddamned Kelly Burch!" He squinted hard before forcing his eyes open again. "It was Burch, huh?" he inquired weakly.

"What?"

"Burch. He was the one who shot me?"

He had begun to lift his head and Kim forced it down again. "No, it wasn't Kelly Burch," she replied.

"But, you said...."

"I know what I said. But it wasn't him. Hell, I don't know why I said that. It just popped into my head. Forget about all of that now. You just relax."

James Kelly Burch, thought Matthews. A minor character in the cast of the drug bust. Not the type at all, he envisioned, to have taken an act of vengeance. Yet, Kim had called his name.

"It wasn't Burch?" he whispered. "No, it wasn't Burch."

He sighed a jerky breath for a moment and moaned. "Then who was it, Kim?"

Kim was now perturbed. "Hell, Creig, I don't know who it was! It's dark out there! Just shut up and relax!"

She now glanced at her watch, cursing silently the lapse of time. The ambulance should have been at the scene by now and the thought led her to curse again.⁸⁵ It was in that moment that Tim pulled open the door to announce that the ambulance was pulling up, but quickly added with disgust, "Oh, hell, it's not the ambulance. It's a sheriff's car!"

Kim could see the spinning glare of crimson as the lights of the brown-and-white Smith County Sheriffs car quickly drew to a halt in front of the mobile home with officers leaping forth, leaving the car doors open. Chief Deputy Jim Collins was the first to approach McGuire, followed quickly by Tony Richardson. She had met both of them before, casually, but at least they would not be strangers. Collins nodded a greeting as he stepped into the mobile home.

"How bad is he?" asked Collins. "Can you tell?" Kim shook her head. "No."

Is he unconscious?"

⁸⁵ Ramsey was later to be critical of the ambulance service, claiming that it required a full half-hour for them to respond to the emergency call. A check of the official ambulance records, however, indicated that only six minutes elapsed from the time the call was received until the ambulance arrived at the scene.

He is right now," she replied.

Collins knelt beside Matthews and gave the officer a quick observation. "The arm looks bad," he surmised. "Did you see the shooter?"

Kim Ramsey bit her lip. Her voice trembled for a moment. "Either it was Ken Bora or someone who looked a helluva lot like him."

Collins looked up as Richardson entered the mobile home. "Let's get some backup here," he stated. "You might tell the Sheriff to start contacting people with the DA's staff. It looks like we might have a case on Ken Bora."

Medical Center Hospital is designated by mutual agreement to receive all emergency calls within the region while Mother Frances Hospital has sole rights to all maternity cases. This arrangement permitted each hospital to become more efficient in their specific specialties and Medical Center was now the trauma center for all such cases as the shooting of Creig Matthews. With a flurry of activity, Matthews was wheeled into the emergency room with one attendant carrying the portable oxygen connected to the mask over the victim's face. He was transported quickly into a special trauma room separated from the ward-like atmosphere of the general emergency room. Nurses responded immediately by grasping surgical scissors and snipping away the young man's clothing. Doctors scrubbed frantically, glancing toward the young narc with expressions of urgency. "Right arm," called the head nurse, "the wrist and above. Hemorrhaging. Large amount of tissue loss....."

The narration assisted the physicians in knowing exactly where to begin their examinations once the preparatory measures were completed. They called their recognition to the information and listened as they pulled powdered latex gloves on and waited for a nurse to complete the process of drawing blood from Matthews' arm where the samples would be sent to the blood bank for cross-matching in anticipation for the pending surgery. The doctors would wear their scrub-suits, the recognized attire for emergency room treatment, but would later don the surgical gowns to insure the sterile atmosphere needed. For now, they would merely watch and call forth their responses. An antibiotic to combat any

potential infection was ordered. An IV solution to counteract the effects of shock. Updated readings on the vital signs.

"Massive wounds, right thigh," the nurse called. Her hands deftly clipped away Matthews' trousers. "Oh.... six inch diameter."

Now, the clothing had been removed and cleansing fluids were swabbed around the gaping wounds. The doctors moved forward, peering into the damaged tissue in an attempt to determine the degree of corrective measures needed as temporary safeguards. The victim was young and had a tough, slender build. That would be in his favor. The vital signs were holding quite well. With the aid of oxygen, the respiration was steady and strong.

"Prep him and get him up to surgery," the doctor commanded.

In the hallway beyond the trauma room, Kim Ramsey sat in the midst of inquiring deputies. She did not want to respond to their questions at that moment and it was apparent. Politely, they withdrew, stationing themselves about the hall as sentries, not quite knowing of the danger they guarded against. City policemen were now arriving at the scene and were chatting with their county counterparts. Tyler officer Keith Gwaltney stood at the door of Trauma Room No. 3 and offered a greeting to Kim with an expression of sympathy.

Tim McGuire sat beside Kim Ramsey. They did not speak, but shared the moment of fear and dread in silence. A friendly nurse with a round face approached and asked Kim if she would like to see Creig before they took him up to surgery. He was floating in and out of consciousness. Perhaps she would like to see him before he was taken upstairs. Kim nodded eagerly and called to Gwaltney.

"Keith," she said hesitantly. "Would you do me a favor? Just hang around and kinda' keep watch on things, huh? I wouldn't want anything else to happen tonight."

Gwaltney nodded his agreement. It was apparent that the young woman was shaken. He would stay near to her as much as possible, providing what comfort he could. Perhaps his mere presence would give her a new sense of security. Yes, he would stand guard.

Kim stepped into the trauma room, followed by Tim McGuire. Gwaltney held the door for them and allowed it to swing closed behind them. Creig opened his eyes, as if the sound had awakened him. Slowly,

he raised his head.

"Kim. .." he moaned. "Yes, Creig, I'm here." "Kim, who shot me?" asked Matthews.

Kim smiled slightly, touching the loose strands of hair on Matthews' forehead. "I don't know, Creig. It was too dark."

Matthews rested his head back upon the examination table then, closing his eyes as if the news had been too discouraging to accept in consciousness. Kim stood over him for a moment and then turned abruptly, moving back into the hallway with McGuire following in obedient silence.

She had not been seated long when a somber nurse with grey hair moved toward her, stating, "Okay, let's take care of you now."

Kim smiled slightly. "I'm okay," she muttered.

The nurse squinted. "We'll have a look at it anyway." Kim frowned. "Look at what?"

The woman bent over her, pulling at her sleeve. "This arm," she replied. "It doesn't look like anything serious, but we'll have a look at it anyway, huh?"

Kim's eyes widened with a glance at her arm. Rivulets of dried blood had coursed toward her fingers. "Damn," she mumbled.

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It's nasty," the surgeon remarked as he pushed his glasses closer to his eyes with the back of his gloved hand. "We've got arteries, tendons, nerves.... a lot of corrective work to be done later."

The physicians had agreed to permit a police department photographer to take photos of the wounds prior to surgery and the surgeon wondered if photos could ever really capture the magnitude of the wounds before him.⁸⁶ Embedded in the tissue were scatterings of pellets that he retrieved

⁸⁶ Matthews' wounds were so severe and so grotesque that the photos taken that night by the police department photographer were later presented to U.S. Judge William Wayne justice who refused to enter them into evidence until the offensive portions of the photos were cropped away. Justice was to state that the photos were "the most gruesome things I've ever seen."

from the bleeding cavity with tweezer-like pinchers. The pellets clattered upon the metal tray as they were removed, one-by-one. They would be cautious with these objects, for they knew they would be required as evidence later.

It was not the type of surgery physician's appreciate. There could be no resolution to the work. They could not snap off their gloves and declare that the operation was a success. Here, all they could do would be confine the bleeding and prescribe a series of antibiotics to retard the potential of infections. They could remove all of the foreign objects (the shotgun pellets) as could be detected, and they could make preliminary repairs to some nerve damage. Beyond that, other physicians would have to do the cosmetic work. Plastic surgeons in Dallas where such specialties were best practiced, would receive the task of concluding what had begun that night. They would not be able to inform the slender woman waiting downstairs that the operation had been a total success, they could only state with reasonable certainty that Creig Matthews would live. Even that, however, would have to be qualified. He would live, but it was a distinct possibility that he would never regain complete usage of his right arm.

With the hall now crowded with law enforcement officers, Kim Ramsey retreated to a pay telephone where she placed two calls. The first was to Chief Willie Hardy. Casually, she was informed that Hardy was out-of town attending a function at the Hyatt-Regency Hotel in Dallas. Kim snapped that he would have to be contacted and related that Creig Matthews had been shot. The announcement seemed to be adequate incentive for Hardy to be interrupted at his event, and Kim dropped another quarter into the telephone. Thumbing quickly through her address book, she dialed the number in Austin, Texas for long-time peer and pal, Troy Braswell. The old friend quickly assured her that he would be in Tyler as quickly as he could. Good friend Troy.... always there when needed. Kim felt guilty with the recollection of the times she had concurred with Creig's complaints that Troy was around too often during the course of the investigation. They had felt he "dropped in" too frequently and involved himself in cases that were not a part of his assignments. Surely it had been a gesture of interest, a sincere desire to be of assistance. But they had complained; feeling that Troy Braswell had taken too great an interest in the probe and had offered help to the point

of interference.

When Kim returned to the emergency room waiting area, her quick glance captured a myriad of familiar faces. J.B. Smith now mingled with his subordinates, obviously listening to their narratives of the night's events.

He did not approach her, but nodded a friendly greeting. She was glad that he would not question her at this point. The man demonstrated what she was to term as "class." He must have known she was distraught, and this was the least appropriate time to raise questions.

Beyond Smith, she captured the sight of Brad Burger, the Smith County Sheriffs Administrative Assistant. She wondered if the entire top echelon of the sheriff's office was there, if there was anyone left who would now be unaware that Creig had been shot.

If the thought disturbed her, a new sense of alarm flared within her with the sight of District Judge Donald Carroll chatting with investigators at the far end of the hall. What the hell are they doing? she asked of her self. Is every official in the county being called in? She sighed with resignation, knowing that she would have to be as composed as possible and cordial to all.⁸⁷

Later, Carroll would be brought to the trauma room to observe Creig and his face was fixed in a grim expression that such a thing could have happened. He would inquire about the identity of the assailant and Kim would recite that it was Ken Bora. There was no question. It had been Kenneth Andrew Bora pulling the trigger.

"We'll have to talk about this later," Carroll had advised her. "You know that."

"Yes," she said with a sigh.

"Okay. I'll keep myself available whenever the DA wants to have a meeting. I'll be available at any hour."

⁸⁷ In the months that followed the presence of Judge Carroll at the hospital spawned many rumors. People questioned how it was that Carroll was at the hospital at the exact time that Creig had arrived, and in fact, was there prior to Matthews' arrival. It was fertile ground for rash rumors. Investigation has revealed, however, that Carroll was legitimately at the hospital to keep vigilance over a relative in critical condition in the hospital's intensive care unit. Tragically, the relative was later to pass away, and Carroll's presence on the night of September 15, 1979 at Medical Center Hospital was truly nothing more than coincidence.

Kim offered her thanks and watched the judge walk away to join a cluster of lawmen within the hall.

Tim was speaking to her, but her mind could not force itself to register the content of his statements. His voice was but a drone in the background of her thoughts and she wanted desperately to lean her head back and surrender to sleep. But that would not be proper under the circumstances. Creig was in the operating room fighting for his life and it would appear heartless to spend those hours of anxious waiting in slumber. Always, she thought, there was a role to play. It was not confined to the mystical world of the narc, life itself mandated roles for all people. In this moment, she would have to perform in the role of the distraught lover.

She found herself glancing at the clock too often. Observing the time with frequency only made the hours pass more slowly. By ignoring its existence, she found herself startled with the amount of time that had passed and it was far more comfortable to her apprehensions than to realize how slowly time actually transpired. With the arrival of Troy Braswell, she realized that more time had passed than she had really imagined. She accepted his embrace of friendship and quick words of concern, and then felt her rage boiling again. "Isn't this the shit?" she asked.

"What's that?" asked Braswell.

"You were almost twice as far away from us as Hardy is, and you beat him here! Isn't that just like that son of a bitch?"

With Braswell there, the time moved more quickly. It was now filled with the recounting of the night's events, informing him of the details of the shooting; a narration she knew she would have to repeat many times in the days before her. She had nearly concluded the recitation when McGuire elbowed her and whispered, "Hardy's here."

With a motion of his hand, the chief beckoned Kim to follow him to the waiting area in the lobby of the hospital. It was quiet there with no one to disturb their conversation. She sensed a certain excitement in his demeanor and he asked the typical preliminary questions about her condition and told her that he had already inquired of the hospital officials about Creig. No one knew yet how he was doing, but the prognosis didn't look all that bad.

"They tell me it was Bora," he said with a grin. "Yeah," she nodded.

"Okay," he replied firmly. "Now, it is Bora, right? That's the identification and you're not going to change it. Is that right?"

"Yeah, Chief," she answered wearily. "It was Bora" "Okay," he sighed. "Okay."

Hardy busied himself making assignments after they returned to the emergency room area. He wanted security guards posted at Creig's room. There would have to be guards on duty around-the-clock. The assignment officer would have to shuffle personnel around, but the security detail would have top priority. Kim watched his bold assumption of power, the whirlwind of activity and command, and felt her bitterness rising. If he was so damned concerned, why did it take him so long to get here? she thought.

Again, the flow of words around her had become oblivious to her thoughts. Slowly, however, she forced herself to return to the scene about her and she recognized that Tim McGuire was speaking quickly, excitedly to Troy Braswell.

..... It was dark inside the trailer," he was saying. "Real dark and you couldn't see too good when you first went in. The first thing I heard was this drip, drip, drip, real fast. I went over to the water faucet at the sink and tried to turn it off. But, honest to God, it wasn't the water. It was Creig bleeding on the floor!"

Tim glanced at her for verification, and she nodded slowly as J.B. Smith stood in the doorway of the waiting room.

"The doctors say Creig's going to be okay," he began.

Kim closed her eyes with an expression of gratitude. "Can I see him?" "Pretty soon," replied the Sheriff. "He's not out of the woods totally. There's always the chance of infection or anything else that can make things tough, but right now, the doctors think they have things pretty well under control."

Troy Braswell smiled. "Thank God," he muttered.

"Kim," Sheriff Smith continued, "I've got a couple of guys from the DA's office down at the department. They have to talk to you. Jerry Banks and Jim Walker. You feel like going to my office now and giving a statement?"

Kim glanced around nervously. "Would you bring me back here when it's over?"

Smith nodded. "As soon as we're finished, I'll bring you back." "Okay," she agreed. "We might as well get it over with."

It was all procedure then. The walk into the warm night air to the car that Smith had driven to the hospital. They sat quietly for a while as he wheeled it around the emergency entrance and onto Beckham Street toward the center of Tyler where the Courthouse stood as a centerpiece. They stopped at a red light at the intersection of Beckham and Front Streets and Smith glanced in her direction before speaking. "Kim, I know you've been under a lot of pressure up there at the hospital to give a positive identification of the man who shot you. But I want you to tell me right now if you're not sure."⁸⁸

Kim shook her head adamantly. "No, I'm sure that's who I saw. It was Ken Bora."

The silence returned then until they walked into Smith's office toward the rear of the Sheriffs Department. The men from Hunter Brush's office were waiting for them and the dull, aching procedures began again. The questions flowed systematically and notes were taken with a methodical attitude of being nothing more than a necessity. It did not seem that the notes chronicled the life and death of men.... they were but the expected responses of those trained to follow procedures. Finally, the questions had been exhausted and the forms completed. Kim affixed her signature and gave her assurance that her statements represented the whole truth. All that remained was the extension of the procedures. The forms would have to be reviewed by a judge and signed by the official of the court. Once that was done, the warrant for Kenneth Andrew Bora, charging him with Attempted Capital Murder, could be activated.

Judge Donald Carroll would have to fulfill his promise to be available sooner than he had expected. He did not seem disturbed by being called at such a late hour and added his brief questions to those posed earlier by the Assistant DA's. With a nod, he seemed satisfied and signed the

88 Kim Ramsey was later to state that J.B. Smith was the only person who gave her the opportunity to tell the truth. She failed to do so, but seemingly admired Smith for his gentle way of prodding her to reveal the true circumstances of the shooting.

documents. Now, Kenneth Andrew Bora was a wanted man. The Porno King of the Southwest was wanted for Attempted Murder.

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Tyler Police Officer Phil Megason watched as Kim Ramsey and Tim McGuire disappeared around the corner of the hall, apparently heading toward the office of Willie Hardy or Assistant Chief Kenneth Findley. He clenched the muscles of his jaw with indecision. His hands, he discovered, were knotted into fists of frustration. At the end of the hall, he spied his superior, Sergeant W.D. Richardson⁸⁹ engaged in a discussion with Sergeant Mike Lusk. He waited patiently for the conversation to end, weighing his decisions carefully. Perhaps it would be better to remain silent, he thought. Once before, when he had chosen to speak out against a wrong, he had been the one to pay the penalties. That had been long ago, when he had worked for the Texas Department of Fish and Game. He had come to believe that irregularities were taking place at a fish hatchery and had gone to the department's officials with his allegations against fellow employees whose actions, he believed, were dishonest. The result had been found in a hearing where the accused were not disciplined and he had been the one to leave the department rather than to continue working amongst such activities. Now, the same decision faced him, and he pondered deeply about which course he should take.

"The trouble with you, Phil," his mother had once said, "is that you see everything as being either black or white. There's a lot of grey in this world and you're going to have to learn to see it and accept it."

No, he concluded in that moment. This was not grey. This was a matter of absolute black, and he moved slowly toward Richardson, noting that Lusk was nodding in gestures indicating that their conversation was ending.

"Sarge," he said as a greeting, "I have to talk to you." Richardson nodded. "Okay, Megason."

⁸⁹ Not to be confused with Sergeant Tony Richardson who worked for the Smith County Sheriff's Department. Sergeant W.D. Richardson was a member of the Tyler Police force and is currently a Lieutenant with that agency.

Megason glanced about him. He would not want his words to be overheard. Quickly, he assembled the facts within his mind. The facts from the moment three days earlier when Creig Matthews had been shot. "I've been on the security detail," he informed his superior.

"Yeah," agreed Richardson. "Out at the mobile home park."

"Right. And I've had to drive Kim and McGuire back and forth from the hospital. From the hospital to the police station. From the station back to the mobile home park."

Richardson glanced at the clock as a signal that he had better things to be doing. "Someone has to do it, Phil," he offered.

"It's not that," said Megason. "I don't mind the assignment. It's just that while I've been driving them, they've been sitting in the back seat of the unit talking about the shooting. They've told me all about what happened that night."

Richardson shrugged. "Okay."

"Well, the problem is that the story's never the same. The first time they told it, the shooter poked a shotgun through the window. The second time, they said that the shooter came right inside the mobile home and blew the place up. The third time, Kim could identify the shooter and even saw the kind of car he got into to make his getaway."

Megason detected the expression of confusion on Richardson's face and wondered if it meant that he didn't understand the impact of what he was telling him, or if he shared his concern of the inconsistencies in the witnesses' stories.

"This thing is going to have to come to a trial," Megason said firmly. "And these people are going to have to get their story together. They can't go into a courtroom telling stories as different as the ones I've heard!"

The Sergeant received the news with his eyebrows, raising them with a slight nod. "Wait here," he commanded, and walked toward the office of Assistant Chief Kenneth Findley.

In his absence, Megason rehearsed how he would relate the tale to Findley. Finally, he resolved that it would have to be told much in the same way that he had told Richardson, straight forward and factual. Yes, he would tell the truth and would wait to see the outcome. In that moment, he wished that he had related to Richardson the event involving the shotgun. His mind relived the moment when he had first relieved

Officer Randy Friend at the mobile home park and situated his police unit in front of the residence of Tim McGuire. From there, he could watch the terrain and provide security for the Ramsey mobile home as well. It had been the place Friend had been stationed, and he would wait there patiently for the radio message from headquarters telling him that Kim and McGuire were ready to be transported to the hospital to visit Creig. Sure, it was a taxi assignment, but it was easy and he had a severe case of laryngitis. If it had not been for that, his original assignment would have had him serving as dispatcher. With his raspy voice, however, that was impossible, so the assignment officer had placed him on the security detail. It was easy and he welcomed it. Tim McGuire had exited from his residence that day, moving toward the police car, carrying a shotgun. Without offering any comment beyond a cursory greeting, McGuire had placed the shotgun in the rear seat of the unit and Megason had not gathered his thoughts enough to question the act. McGuire had left quickly, walking toward Kim's home, and Megason could only lean over the back of his seat to view the weapon and wondered in that moment if he should advise the department of the act. No, he reasoned, he would remain quiet and wait to see what happened.

Later, when he was to transport Kim and McGuire to Medical Center Hospital, Tim had removed the shotgun as he alighted from the car. Megason had challenged him then, stating that McGuire was not going to carry the weapon into the hospital. McGuire had become angry with the officer's comments and had informed him that he would, indeed, take the gun with him. Megason had ordered him to place the shotgun in the trunk of the car or to get in it himself and they would talk about the matter at the police station. With that, McGuire had grown sullen and had placed the shotgun in the unit. Yes, he should have told Richardson of that event as well, but he doubted that it had much relationship to the matter of the pair's inconsistent stories.

Within minutes, Richardson returned to coldly announce that Megason should deliver Ramsey and McGuire back to their homes and then report to the hospital to serve on the security detail for Creig Matthews. There was nothing said of his charges, and Megason rationalized that he would be summoned later by Findley to discuss the matter. Surely it was something that wouldn't be simply forgotten.

In that, Officer Megason was totally correct. It was a matter that would not be forgotten.

It did not take long for news to reach Kenneth Bora that he was now wanted for Attempted Capital Murder. A constable he had known casually had called to inform him of the development. He shook the sleep from his eyes and listened. Slowly, he hung up the phone and began to pull on his clothing.

Barbara, his wife, was not there. She was in Odessa attending the funeral of her brother. It was better that she was gone, he knew. There would be no need for explanations, no frantic tears.

For a while he waited, and then exited the house moving toward his auto. His mind envisioned sharpshooters behind the trees.... almost a reenactment of the arrest at Northside Park. He cursed the light as the car door opened, and closed it quickly so that he would not be more visible than necessary. Again, he glanced about him. The key turned in the ignition and he raced out of the driveway onto the highway. His thoughts moved almost as quickly as the car. The vision of Creig Matthews pointing the gun at him returned to him. "I finally got you, you big mother fucker! You're going to jail for 99 years!" Yes, he had hated Matthews and had angrily replied with an assortment of threats that had brought the second charge of retaliation. But why the hell shouldn't he have threatened the lying narc? He was being arrested for something he had never thought of doing. And now, he thought, and now, it's Attempted Capital Murder! He thought back over the previous hours. Surely he had done something in that period that could be used as evidence that he had been somewhere else at the time of the shooting, doing other things. He had taken one of the girls home. Yes, he had done that. His brother had been there, too. But when was Matthews shot? At what time? Where? No, it would be impossible to provide himself with an alibi until he had more information. But, he pondered, why should he have to seek an alibi? What was it he had done that had caused the City of Tyler to so condemn him without cause? Yes, he had shown some porno flicks in his time and had marketed some flesh magazines. He had dealt in the exotic "rubber

goods" and had bargained with sleazy managers of stores offering dildoes. But he had gone to Tyler in the hope of starting anew, to establish a sound and profitable reputation. He had not sold Creig Matthews cocaine. His jaw tightened with the thought. He had not done it! Yet, he had been arrested, had posted an exorbitant bond, and his liquor license was being challenged in Austin. Now, he was to be arrested again. As he directed his car on the highway that night, he knew its description was already being radioed across the state. It would be only a matter of time, he knew. Yes, it would be but a matter of time.

The network of back roads offered an occasional sign of direction, and Bora followed the one marked, "Canton." Canton appealed to him, perhaps because of Canton, Ohio, not far from his birthplace. Canton, Ohio, the home of the historic Canton Bulldogs where professional football found its beginnings. Yes, if it was nothing more than sentiment, he would drive toward Canton.

Canton, Texas is typical of small Texas towns. A city square punctuates its design and a courthouse stands in redstone silence, as if some mystical common planner had designed all the cities of the state. The people are practical and homey no-nonsense folk with a bent toward minding their own business, or at least, wanting everyone else to mind theirs.

Bora parked his car beside a pay phone and thought of calling Charles Tessmer. It was too early, he reasoned. He did not want to disturb Tessmer. Instead, he dialed the number of Tim Finnical. Finnical had been pleasant and Bora had like him.

"Where in the hell have you been?" asked Finnical. "I've been trying to call you!"

"You know then," replied Bora.

"Hell, Yes! I've already got a call from the Smith County DA's office telling me that you should turn yourself in and make things easy."

Bora sighed. "I didn't do it, Tim. Honest to God, I didn't do it."

The attorney was silent for a moment "Okay. God knows I wouldn't blame you if you had. Where are you now?"

Bora tightened his lips. "If I tell you, are you going to call them and have them come get me?"

Finnical snorted. "And have you up there without a lawyer? Hell, no. I

want you to come here, to the office."

"Okay," agreed Bora, "but I swear to you, I'm seriously thinking about just keeping on going. Just get the hell out of here and this crazy place." "You can't do that," argued Finnical. "Do you know how long you'd last? And when they got you, the fact that you ran away would make it that much harder on you. It would make it look like you ran because you were guilty."

Bora knew it was true. Everything Finnical was offering as advice was true, but the impulse was there to counter his judgment. "Okay," he said quickly before he could change his mind. "I'll be there in about an hour."

"Good," said Finnical. "We'll meet somewhere else, just in case they're staking out everywhere you might go. Do you remember the restaurant where we had lunch the last time we met here?"

"Yes," replied Bora.

"Let's make it there, in about an hour and a half."

The Monday, September 17, 1979 edition of the Dallas Morning News carried an Associated Press release with the banner, "Tyler Suspect Surrenders." The story related: "A Tyler drug trial defendant wanted in the shooting of a pair of undercover narcotics officers credited with the biggest drug raid in East Texas history surrendered to authorities Sunday.

"Smith County Sheriff J.B. Smith said Kenneth Bora, 34, of Tyler, was accompanied by his attorney Sunday night when he surrendered to Smith County deputies, Texas Rangers and a deputy constable in Canton.

"Smith said Bora would be arraigned Monday morning before State Dist. Judge Donald Carroll.

"Bora had been named in an arrest warrant issued late Saturday by Carroll.

"The judge said the warrant charges Bora with attempted murder in the shooting of Creig Matthews, 32, and his former partner, Kimberly Ann Ramsey, 23.

"The pair was wounded Friday night by a shotgun blast fired through the window of a mobile home.

"Matthews was in satisfactory condition Sunday. Ms. Ramsey was treated and released from a Tyler hospital Friday.

"Police reports said Ms. Ramsey returned fire during the assault Friday

night.

"At a news conference Sunday, officers said Bora was one of those arrested in the East Texas raid.

"Bora's first trial on charges of delivery of a controlled substance ended in a mistrial. He was scheduled to be retried before Carroll on Oct. 1.

"Matthews worked undercover for eight months as a bartender's helper at a private club to set up the raid that resulted in 121 arrests in April.

"Smith discounted the theory that the attacker was a professional. 'A professional hit job does not leave victims alive,' Smith said."

The meeting had been brief. Texas Ranger Stuart Dowell, Smith County investigator Tony Richardson, and deputy constable for Van Zandt County, Bill Abbott, arrived at a predetermined location to confront Bora and Tessmer. Now, the surveillance could, be discontinued.... the search for Kenneth Born had ended undramatically.

The Tyler Morning Telegraph of September 17th. made the arrest of Bora its headlines. "Bora Surrenders In Canton." It included the information of the extent to which the man had been sought.

"A statewide search for Bora was launched late Saturday and officials staked out his East Texas home and ranch Sunday in efforts to apprehend him, Smith said."

"Early investigations pointed to Bora, and Sheriffs deputies, Texas Rangers and Tyler police wearing bulletproof vests and heavily armed staked out Bora's home at Hide-A-Way Lake, but made no move Saturday waiting for 'physical, concrete evidence so that there is no mistake,' Smith said."

Again, Kenneth Andrew Bora was being booked into the Smith County Jail. This time, however, there was no bond set and he would have to remain behind bars until either he was tried or his attorneys could convince Judge Carroll that he was of good enough character to be released on bail.

Even as Bora stood with his hands upon the bars, officers were already executing a search warrant at his Hide-A-Way Lake home. The lawmen struck at 1:50 a.m. on Monday morning. Diligently, they tore through the home, calling forth with each discovery of significance. Within hours, they

had a collection they felt would do much to lend credence to the portion of the state's case that claimed Bora was involved in the lucrative business of dealing in drugs and porno movies. Indeed, the list was impressive:

1. 56 porno movies
2. 1 Remington Model 160 30.06 rifle
3. 44 pornographic $\frac{3}{4}$ " tapes
4. 3 pornographic $\frac{1}{2}$ " tapes
5. 5 commercial 'take up' reels
6. 4 packs of film splicing kits
7. 7 large commercial film reels in numbered metal cases
8. 1 GAF slide projector
9. 12 round slide trays
10. 47 rolls of undeveloped film
11. 1 video guide book
12. 1 footlocker containing a coin collection⁹⁰
13. 1 12 gauge Harrison-Richardson over-and-under shotgun
14. \$44,000 in cash stuffed in a binoculars case

The list continued to include a large variety of personal notes and records as well as a large collection of weapons. At last, Bora's pack-rat habits had caught up with him. He had even saved the print of "The Devil In Miss Jones" that he had purchased back in his Dallas days when the mobsters had demanded their share of the box office take. He had saved everything, even the spliced segments of the movies he had altered to be certain they could not be considered "obscene" by lawmen. Now, lawmen charged that having them in his possession constituted his trafficking in obscene materials. Even though Bora had listed his occupation on police records as being a distributor of videotape equipment, the abundance of such equipment within his home was now interpreted as being the instruments by which he dealt in the dark world of pornographic movies.

"Some of the films have been spot checked, reviewed, by my vice officers," said Willie Hardy to newsmen, "and some may be presented to the District Attorney's office for possible filing of charges."

Even though no charges were ever filed in relation to the films found

90 The footlocker contained a vast collection of antique coins conservatively valued at \$10,000. It required four men to carry the footlocker from Bora's residence.

in Bora's home, the very suggestion that it could have happened represented the degree of hypocrisy existing within the system at that time. Only a few years before, Willie Hardy had attended a meeting of the state's narcotics agents. The conference was hosted by a major industry within Smith County, Tyler Pipe, and attracted narcs from across the state. Once the business portion of the meeting had been completed, some Dallas vice officers produced a print of "Deep Throat" that had been confiscated in a Dallas raid and gave their peers a private screening. Once the movie had ended, the cards were pulled out and a poker game of reportedly sizable amounts began.

Now, the mere presence of "The Devil In Miss Jones" and spliced portions of porno flicks presented potential charges against Kenneth Bora, but no one, naturally, suggested that charges be levied against the flock of lofty officers that night at Tyler Pipe.

Early on the morning of Monday, September 17, 1979, Hunter Brush had already prepared a motion requesting that Judge Donald Carroll deny bond for the prime suspect in the Matthews' shooting. A spokesman for Brush's department stated, "If a suspect is arrested for committing another crime while out on bond pending a trial, bond can be denied."

On that same day, Judge Carroll summarily denied bond to Kenneth Andrew Bora, ordering him jailed until the date of his trial. At the hearing to determine bond, Kim Ramsey appeared with a bandage covering her arm. Reporters eagerly asked her the extent of her injury and she smiled before responding, "I think it was probably from the shotgun wadding."⁹¹ If the news of Bora being denied bond was not enough, the courtroom had another element of excitement that day. Judge Carroll had ordered extreme measures of security, having Smith County deputies stationed at the doors of the courtroom with small metal detectors that were moved about the bodies of those seeking entrance to the room. The judge had ordered that no one would be permitted to enter or leave the courtroom while the trial was in progress. Assistant District Attorney Tom Dunn had started to enter the courtroom when a deputy asked him to

91 Shotgun shells are constructed so that a piece of 'wadding' is inserted into the shell to contain the pellets to be pushed forth by the explosion of the gun powder. Ramsey maintained that this 'wadding' had struck her arm in the course of her struggle to thwart the gunman's attack.

pause for a search. Dunn was irritated with the process, and glancing behind him, saw Tim McGuire next in line. "Why the hell are you messing with me?" asked Dunn. "Why don't you search him?"

Sheriff's investigator Tony Richardson accepted the criticism politely and glanced apprehensively toward Smith County Sheriff J.B. Smith. Yes, McGuire was next, and with the negative reading from the detector, he nodded for Dunn to proceed into the courtroom. Before he could move the detector toward McGuire, however, Richardson noticed a slight bulge under McGuire's shirt. "What have we got here, Tim?" he inquired, and pulled up McGuire's shirt to reveal a .357 Magnum. Quickly, Richardson and J.B. Smith removed the weapon and placed McGuire under arrest. Earlier, McGuire had actually entered the courtroom, sitting near the rear of the gallery with his arm sympathetically around Kim Ramsey's shoulders. McGuire was angry with the development. Smith, however, was not in the mood to listen to anything but the orders of the court. He presented McGuire before Justice of the Peace, Mrs. Leon Hicks, who established a \$500 bond and ordered McGuire to appear in the Smith County Court of Law at a later date.

Defense attorneys throughout the region were delighted with the development. Now, the affidavits of the defendants claiming that they had been harassed by McGuire gained a new element of validity.

To Kenneth Bora, however, the McGuire incident meant little. He was now confined in the Federal holding tank of the Smith County Jail, the most secure portion of the facility. There, he would languish away the hours avoiding contact with the other prisoners, reluctant to discuss his case, and felt the bitterness growing daily. The jail was adequate, but was described later by Bora as being a "zoo." Even so, his time within that jail was not without incident.

At one mail call, Bora received an unsigned birthday card even though his birthday was far from that date. The note was obviously written in a hand attempting to disguise its structure, and offered Bora the advise, "...save your money and don't spend it on attorneys. Give me the money and you won't need an attorney! I need the money!"

Bora was never to perceive the source of this strange missal, but was later to conclude that it had possibly been sent by none other than Kim Ramsey. Who else could have offered a deal wherein he would have no

need for an attorney? Yes, he reasoned much later, it must have been Kim.

The incidents didn't end there, however. In the jail, the comforts such as pillows are non-existent. Bora rolled up an extra blanket to place under his head at night, and struggled to discover a position of relative comfort. Upon awakening one morning, he reached under the rolled-up blanket to feel something hard, cold, metallic. He withdrew a Spanish-made pistol. Calmly, he checked the pistol to determine if it contained bullets and once satisfied that it did not, move with it toward the door to the tank. He called for the jailer and shoved the gun through the slot in the door. With the sight of the weapon, the jailer turned quickly, believing that Bora was surely attempting an escape. "Hey, wait a minute," shouted Bora, "I just want to give this to you and I want to make a phone call."

The jailer cautiously retrieved the weapon and presented Bora with a telephone. Quickly, Bora dialed the office of a reporter with the Tyler Courier-Times. He informed the woman reporter of the incident and advised her that, ". . .if anything happens to me, you'll know that it wasn't my gun."

For years after this incident, authorities within the Smith County Jail were to deny that such an incident ever occurred. It was not until 1984 that the same officials admitted that it was, indeed, a true story. Their explanation, however, held elements even more astounding than the incident itself. They related that a Mexican had been arrested for drunkenness and had been booked into the jail. During the process of searching the Mexican, the pistol he was carrying was "overlooked." He was then taken to the Federal holding tank and somehow, the pistol finally wound up in the hands of Kenneth Bora.

This explanation holds many ingredients of speculation. Why should a person arrested for mere drunkenness be placed in the maximum security *Federal* tank? How could an object as large as a pistol be "overlooked" by professional jailers conducting a routine search? A former member of the District Attorney's staff was to later recall the event and added, "As I recall, the Mexican was booked into the jail by a Tyler policeman."

The implications are too bold to deserve elaboration.

If these times were difficult for Kenneth Bora, they were no less difficult for Judge Donald Carroll. Only 90 days before, Floyd Hacker, Chief

of Criminal Investigations for the DPS in Austin, confirmed that his office was seeking a man believed to be living in Henderson, Texas⁹² who was suspected of issuing a threat against the judges of Smith County. The caller had contacted an aide to Texas Governor Bill Clements and had demanded the removal of Judges Phillips, Carroll, Calhoun and District Attorney Hunter Brush, "because they're all a bunch of crooks."

When unsatisfied with the aide's response, the caller was hostile but was asked to call again later when the matter could be taken under consideration. When the second call came, the voice simply listened to the explanation that the Governor could do nothing in the matter, and then stated, "I will take care of this myself!"

Carroll was to admit that he was warned of the call and had taken precautions "with my family because I don't take these things lightly and have advised the other judges to do likewise."

The call was among the prime elements prompting Carroll to have high security measures within the courtroom. Meanwhile, he and his family would live under the veil of threat and danger.

No, the time of Bora's confinement would not be totally boring, neither to him or to others involved in the case. Even the elite members of the "inner-circle" found themselves alternating between the sweet sense of fulfillment and a dread of what might happen next. Only days before, they had feared that Bora might escape the drug charges against him altogether, but now, there was the prime case of Attempted Murder, and nothing could satisfy them more. It did not help, however, to have McGuire arrested with a weapon in a courtroom, and it was certainly of no assistance that Matthews was now displaying an attitude of hostility.

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Creig Matthews had plenty of time to think. His mind was now clearer than it had been in past months. He could reason now without the distortions brought by his usage of drugs. There were, of course, the painkillers brought by nurses, but they were not the same as the variety of narcotics he had so openly used while operating as a narc. Now, he had the long,

92 Henderson is a community located about 35 miles from Tyler, Texas.

silent hours to recall the moments and events of his short life, and to gain a new perspective on all that had happened. He was lucky to be alive. He knew that. Yet, within his framework of reasoning, he would have to stay lucky to stay alive. He was convinced that the threat was not yet over.

He thought of the ancient days before he had arrived in Tyler. He frowned with the recollection of his desperate circumstances then. He had been refused jobs offering minimum wages as a security man at hotels. He had sold insurance, but with little success. He had applied for a policeman's job in Odessa, Texas, but had failed the polygraph when asked about whether or not he had ever stolen anything or had used marijuana. Yes, the position in Tyler had seemed as manna from heaven. Now, he was cast into his own private hell.

On the fourth night in the hospital, Kim had been sitting beside his bed as the clock moved between 10:30 and 11:00 p.m. Answering to a light knocking at the door, they were faced with Willie Hardy, Charles Clark and Ed Wagoner. The trio got down to business quickly. It would be necessary for Creig and Kim to submit to a polygraph. The allegations against them were growing too much to refuse. Even the reporter, Howard Swindle, had been raising questions about why the narcs had not been given polygraphs. Yes, the trio insisted, the polygraph would be necessary.

Matthews was later to state..... I was sitting there looking at Hardy saying, 'You know I can't pass a polygraph, idiot! You've seen the tracks on my arm! I couldn't pass a righteous polygraph!' But to get them out of the room that night, we consented to take a polygraph test."

His mind recalled all such things, and he found himself feeling a strange sense of disgust. Disgust with himself and the system to which he had so easily been dedicated. He thought of the overdose and the eventual effects it had inflicted upon him. He recalled that on one occasion, he had found himself driving toward Dallas and suddenly asked himself, 'What am I doing this for?' He could not remember the purpose of his trip. He turned around and returned to Tyler in time to receive a phone call from one of his best friends asking him why he had not shown up in Dallas for the wedding where he was to be the best man. Yes, the PCP that had spiked his drink had produced long-term manifestations that still disturbed him. He had spoken with Hardy about a disability resulting

from the event, but that had gotten him nowhere. His bitterness increased.

He relived the scenario of the past days. He had struggled, with the help of Kim, to make the required number of cases in order to bust out of the investigation. Now that the cases had been made by any means, he was incapacitated within a hospital, and he muttered a soft, "damn!" He had come so close to being able to walk away from the drug investigation, and now he wondered if he ever would.

Matthews also knew that his situation was complicated by the Cindy Lane case. Yes, he admitted to himself, he had screwed up royally on that one.

Cindy Lane was the daughter of a Smith County deputy sheriff and now, that department was investigating the circumstances in which he had been shot. Perhaps not all of the deputies would be sympathetic with him now, he thought. All because of Cindy Lane. He had filed charges against the girl, claiming that he had discovered marijuana in her possession. The attorneys in the DA's office, however, had asked for a copy of the search warrant that had produced the evidence. Matthews had promised to deliver it to them. Nothing happened. The request was made again. Still, nothing happened. Finally, the attorneys searched the records to discover that there had never been a search warrant; the evidence was gained illegally.

To complicate matters, Cindy Lane had submitted a statement of damning proportions: "I, Cindy Lane, received a small amount of marijuana in a plastic baggy from Creig Matthews (Jim Meyers) on a Tuesday morning at approximately 6 or 7 a.m. Debbie McClaskey, Bobbie Colston, Aubrey Parks, and myself were waiting for him to pick up Parks. They were going to make a buy on some Preludin. I had asked Meyers while we were at his apartment earlier if he had a joint. He said, 'No, but I will bring some to you. We met at Church's Fried Chicken parking lot on the corner of Palace and Gentry Parkway. He then gave me the pot. Parks left with him and we went home and smoked it. It was good pot, not imitation. All of this occurred one week before the big drug raid on April 25th."

Cindy Lane's statement was supported by sworn testimony from Debbie McClaskey.

"I, Debbie McClaskey, saw Creig Matthews give Cindy Layne about

four joints of weed about 7:00 on a Tues. morning while waiting on him to buy some pills from Aubrey Parks. We were at Church's Fried Chicken of (the) corner of Palace and Gentry Parkway. He was in a red Monte Carlo."

The charges had been dropped because of the lack of a search warrant, but the stigma remained. Cindy's father was a popular member of the sheriffs squad, and Matthews feared that a general hostility might further endanger him. Certainly, the arrest of Cindy Lane had not endeared him to the personnel of the sheriffs office, and the thought disturbed him.⁹³ Now, his mind was given to recounting all of the thoughts that he found disturbing. Tony Richardson and Texas Ranger Stuart Dowell had interviewed him and he mentally reviewed his responses to their many questions. Dowell had worn that stoic face that told Matthews that not all of his tale was believed by the wily Ranger. He wondered to what extent the lawman would pursue the matter. Yes, that was very disturbing. Greater yet, he wondered when he would leave Tyler, and perhaps all of his troubles behind him. Would it be soon? He thought of it and for once, it was a thought that he found pleasing.

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By the 20th of September, the Smith County Grand Jury had reviewed the evidence produced by the prosecutors and on the following day had indicted Kenneth Andrew Bora on two counts of Attempted Capital Murder. One count for the alleged attempt on Creig Matthews' life, and the second being the alleged attempt on the life of Kim Ramsey.

It was devastating to Bora that he should now be charged with two counts of Attempted Capital Murder, one charge of delivering cocaine, and a count of retaliation against a police officer, and he persisted in his claims of total innocence on all counts. The charges were so numerous that no one could doubt his guilt. Still, the District Attorney's office was not through with him. Earlier, Kim Ramsey had related how the shotgun

93 Kim Ramsey was later to criticize the sheriffs department, claiming that they botched the investigation of the shooting and claimed further that one of the reasons was that the daughter of a deputy had been arrested.

had been inserted through the open window of the mobile home to fire the shots at Matthews and now, Hunter Brush and his crew had decided to lodge an additional complaint that Kenneth Andrew Bora was guilty of an attempted burglary in that partial "entry."⁹⁴ The Smith County Grand Jury reviewed the evidence and the testimony of Matthews and Ramsey, and returned the additional indictment against the man who was now at the point of believing that Smith County did not have a single citizen interested in knowing the truth.

In reality, the burglary charge was thought by many to be the reported break-in of Matthews' apartment some months earlier. This event (which did, indeed, happen) had almost humorous overtones. A group of drug defendants who were street wise and skilled in all forms of less-than-legal activities decided that since the narcs had violated a multitude of laws, it would be fair game for them to burglarize the narc's apartment and find anything that might be used against the lawmen. They struck quietly by night and recovered copies of case reports and other data that was to later be used in filing lawsuits against the narcs. The defendants had little to lose. They were already under indictment for crimes more serious than burglary, and they enjoyed the idea of victimizing the narcs much in the same manner as they had been made prey themselves. The incident, however, was commonly thought to be the work of Bora by those within the inner-circle. One thing was certain, it was apparently inconceivable that the burglary could be charged against anyone else.

By now, Ken Bora knew every vein in the marbled halls of the Smith County Courthouse. He had visited the courtroom of Judge Donald Carroll on several occasions, and the scene no longer held any point of interest to him. Now, he merely sat at the defendant's table scribbling notes in unison with his attorneys and listened to the testimony of those damning him for the deeds he had never contemplated. He was enraged, but had decided to use all of the discipline he could muster. Yes, this time he would remain in control and fully aware.

It was difficult to concentrate on the fact that he was now being tried on the charge alleging that he had delivered an ounce of cocaine to Creig

94 Under Texas law, by inserting the barrel of the gun through the open window, the assailant had illegally "entered" the home and could be charged with burglary.

Matthews with Kim Ramsey as a witness. Bora knew that a greater, darker cloud loomed upon his horizon, one that could place him behind the bars at Huntsville for life. Yet, he would have to defend himself one step at a time, and the cocaine charge was the first step. Still, he could not gather the type of discipline that would permit him to forget that he was charged with the shooting of the narcs. He found it ironic that while in the Smith County Jail he had encountered other defendants who had vocally expressed a desire to shoot Creig Matthews. "You guys are crazy!" Bora has countered. "We need Matthews alive to prove our innocence! You don't want to kill him. We've got to have the guy alive!"

Now, it was Bora charged with the crime of attempting to kill the man he had defended only weeks before.

Four men and eight women now comprised the jury that would hear the State of Texas versus Kenneth Andrew Bora. Of the 250 potential jurors called from the rolls of the registered voters of the county by subpoenas, only 124 responded. Of these, 10 were excused for legitimate exemptions. The remaining 114 included 24 who openly admitted that they had followed the case by media reports and had formed opinions about Bora's guilt or innocence. Of these, 23 were excused. Now, 91 jurors remained, and from these, 12 were selected to determine the fate of the man who now appeared to have one of the blackest reputations within the region.

The trial began on October 4, 1979 with Charles Tessmer inheriting the rage of his client. Creig Matthews was dramatically wheeled into the courtroom in a wheelchair and repeated the oath to tell the truth, the whole truth, and nothing but the truth. Throughout the morning, Matthews replied calmly to the questions of Assistant District Attorney Jerry Banks that reviewed his association with Bora while an employee at the Point 21 Club. It was a dry, methodical review of the chronology of the charges, and the jury was listless in the narration. Following the lunch recess, however, it was Charles Tessmer's turn. Tessmer who believed that Bora was innocent. Tessmer who, as a Dallasite, held a particular contempt for the system of justice within Smith County. Tessmer who could not conceive that a city could have hired narcs of Matthews and Ramsey's caliber to track down innocent prey for the sake of gaining enough convictions to rank their efforts as the biggest drug bust in the history of

East Texas.

Tessmer immediately attacked the relationship between Matthews and Ramsey, persisting in referring to Kim as Creig's "girlfriend." Had Matthews recommended Kim to be hired by the Tyler Police Department?

Matthews remained calm, pitiful in his slumped posture within the wheelchair. "No, I introduced her to Police Chief Willie Hardy and she took the same battery of tests for employment as I did."

To emphasize that Bora had been targeted as the prime subject in the drug investigation, Tessmer felt it necessary to refer to the Green trial where Matthews' reputation had been severely damaged. Judge Carroll sustained an objection by Banks, stating that reference to the Green trial would not be permitted because it was not pertinent to the Bora case. Still, Tessmer persisted. He elaborately reworded his questions, but the thrust remained the same. In the Green trial, Matthews had been reduced to a less than credible witness. Again, Carroll ordered that references to the Green trial would not be permitted.

Tessmer was stubborn. He felt intimidated by Carroll and it did not give him comfort. Again, he raised a question concerning the Green trial. Carroll was now angered. He charged Tessmer with knowing better than to ask questions of inadmissible testimony. "The court knows you to be an able lawyer," said Carroll, "any first year law student knows that is not admissible."

Tessmer was not deterred. Later in the afternoon, he would again make reference to the Green trial and this time, Carroll had reached his limits. The judge ordered the bailiff to remove the jury.

"I withdraw my question," surrendered Tessmer.

"I've warned you before outside the presence of the jury about (how the proceedings were being handled) in this courtroom. I'm telling you now, I will put you in jail."

Carroll proceeded with his tirade of anger, telling Tessmer that his "...repetitious, deliberately low blows and unethical conduct" would eventually influence the jury and Carroll did not want Tessmer's client to be penalized for his attorney's behavior.

Matthews now slumped wearily in the chair and told the bailiff of pain and discomfort. Carroll ordered a one-hour recess to give Matthews a chance to rest and compose himself. The hour gave attorney Weldon

Holcomb enough time to prepare a motion requesting a mistrial. The premise was simple, but brilliant. On the previous Friday, Carroll had denied a request by defense counsel to examine the mobile home where Matthews had been shot. Now, in addition to that handicap, the defense attorneys were unable to adequately cross-examine Creig Matthews because of his weakened physical condition. Holcomb maintained that there was no way for the defense to know if Matthews was under sedation, tranquilizers, narcotics or drugs which might vitally affect the witness.

"We requested a mistrial pending the recovery of the witness in order to insure a fair and impartial trial," explained Holcomb.

The defense team was sincerely worried. Matthews had projected such a pathetic scene as a witness that it would be difficult for any jury to keep from extending their sympathy. The quickest way out would be a mistrial.

Judge Carroll denied the motion and patiently awaited the return of the state's star witness. All that could be done now would be to discredit Creig Matthews as much as possible, perhaps removing the sympathy and replacing it with well-founded suspicions. None of it would be easy, and Tessmer fumed with the handicaps forced upon him. On October 1st, Judge Carroll had ruled that information relating to the shooting would be admissible in Bora's cocaine delivery trial, but had denied Tessmer and his defense team the opportunity to visit the scene of the shooting. If they had had the chance to view the scene, their questions could have held greater substance and a better understanding of the facts. At the same time, Tessmer had not had the opportunity to examine the physical evidence: ballistics tests, lab reports, and photographs of the scene in the possession of the District Attorney's office. He had sought a continuance based on his claim that additional time was needed to review the case and if the shooting of Matthews and Ramsey was to become a viable portion of Bora's cocaine trial, he would need more time to learn more of that event. Again, Carroll denied the motion.

Tessmer now felt as if he were being sent to war unarmed. He could only place his hope in his secret weapons, a group of witnesses who could testify that they had seen Creig Matthews use drugs. He contemplated the testimony of Robert Hackney, the tattoo artist who would now tell of how he had been threatened by a state's witness because of his testimony

in the Johnny Allen Green case. Yes, there would be ammunition, and perhaps that would attract the attention of the jury.

On October 4th, the secret ammunition of Charles Tessmer fizzled. It was but a firecracker instead of the nuclear blast he had anticipated. Judge Donald Carroll ruled that the testimony of nine defense witnesses would be heard only outside of the presence of the jury because the subjects' testimony was "inherently untrustworthy" as a matter of law and should not be eligible for consideration by the jury. Tessmer was now reduced to having the testimony heard as "bills of exceptions", a mechanism of the court where an attorney may offer testimony as a form of protest to the rulings of the court and thus have them within the transcript as aids to a possible appeal process.

The Friday, October 5, 1979 edition of the Tyler Morning Telegraph included the analysis: "...Carroll told the media proper cross-examination of defense witnesses would not be permitted, and that the testimony was not relevant to charges for which Bora was being tried."

In frustration, Tessmer and Holcomb joined in a motion for an instructed verdict. This manipulation called for Judge Carroll to remove the power of reaching a verdict from the jury and render a verdict in the favor of the defense on the grounds that the prosecution had not presented sufficient evidence to continue the prosecution of their client. Carroll quickly denied the motion.

The doldrums of the trial quickly resumed with the state calling Kim Ramsey, Mike Lusk and DPS chemist Joe Hogan to the stand. Hogan was to state that he tested the cocaine submitted to his lab as evidence and found it to be nine grams short of an ounce and determining that it had a quality of about nine percent.

Tessmer raised his eyebrows. Nine grams short of an ounce? Only nine percent? Wasn't the implications of that clear? Wouldn't it indicate that Matthews and Ramsey were skimming drugs before submitting them as evidence?

Jerry Banks was quick to respond. Logic: if Matthews had wanted to skim drugs, he could have simply added more powder to the substance to be certain that it weighed a full ounce. "You knew that every substance you submitted would be analyzed and weighed," Banks offered to Matthews. "If you had taken nine grams off the top, you could have

replaced it with something, couldn't you?"

Matthews smiled with the question. Of course. If he had wanted to skim, it would be no problem to be certain that every substance weighed the exact amount when turned in as evidence.

Still, Tessmer was not through. The original incident report filed by Kim Ramsey relating the details of the alleged cocaine sale had stated that fifteen minutes elapsed from the time they had left the club until they delivered the cocaine to the home of Mike Lusk. At first, they had implied that they had delivered the drugs together to Lusk. Later, they were to maintain that they went to Creig's apartment and marked the evidence before going to Lusk's home. Tessmer hit hard. Fifteen minutes to leave the Point 21 Club, go down Loop 323 to their apartment, go to the apartment and mark the evidence, go back to their car, drive across town to Mike Lusk's home and make the delivery? A .J. Foyt might have done it, but it was unlikely that Matthews and Ramsey had.

Now, there was that glint of doubt in the eyes of the jury, and Tessmer rejoiced. Tomorrow, he determined, tomorrow he would place Ken Bora on the stand. Then we'll see if there is such a thing as justice in Smith County!

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October 5th began as a balmy Fall day where the trees of the sylvan hills had begun to pull on cloaks of crimson as if in an attempt to fool the sun into believing there was yet the color of warmth upon the land. It was a day too beautiful to contain the measures that were to be taken in the courtroom of Donald Carroll. There should have been other things to do, things of beauty and meaning.

For Ken Bora, there could be nothing more meaningful than what he had to tell the jury. He summarized it quickly with an expression of fierce honesty, staring each member of the jury directly in the eye. "I've never sold that man (Creig Matthews) anything in my life. I've never sold narcotics in my life!"

Tessmer now went into action with testimony that couldn't be legitimately challenged by the court. He called witnesses who testified that Bora had been ill on the night of the alleged sale and had left the club that

afternoon to go home and rest. He could not have made the sale, they reasoned, simply because he wasn't there.

Dawn Townsend, bookkeeper for the club, testified with ready records that the night of the alleged sale was one of the busiest nights they had experienced and backed up her allegation with records indicating unusually high liquor sales. With that much traffic within the club, Tessmer reasoned, it would have been impossible for the sale to have taken place in the hallway of the club where patrons would have been milling and moving about. The defense team presented a slide program where photos taken every 30 seconds failed to reveal a single time when patrons were not in the hallway where the alleged cocaine transaction reportedly took place.

Witnesses who had known Matthews in Plano took the stand to state that the narc's reputation was bad and that he could not be believed, even under oath.

It was now done, all but the closing arguments and the delegation of the case to the wisdom of the jury. Tessmer slumped with resignation. He wondered if the quality of his work really mattered. Would a Smith County jury ever be inclined to free Kenneth Bora? He would wait and see, and in that waiting, he knew that his concept of justice would be forever formed.

On Saturday morning, October 6, 1979, the closing arguments began. They were not eloquent or dramatic, but simply presented facts chronicled in their proper order. Tessmer and Holcomb maintained that Bora had been a subject of "interest" to the Tyler Police Department a full year before the alleged cocaine sale, that Bora had been simply framed. They characterized Bora as a man wanting to leave his past that involved pornography behind him and a man who wanted to move to Tyler and live peacefully, raising a family in respectability. His only crime was that he was successful. Tessmer was even to alter Grainger's classic comment, stating that Matthews and Ramsey were "old, soiled brooms from Plano hired to sweep the City of Tyler clean." It was as simple as that. Bora had committed no crime, but was the subject of an official persecution.

Prosecutors for the state, Jerry Banks and Chris Harrison, altered the characterization of Bora, describing him not as a successful businessman, but as a "malignant growth on the city which needs to be cut out." They

countered the question of whether or not one would sell cocaine in a busy hallway by stating, "Do you really think it would have made any difference to this man if people had been in the hallway?"

Courtroom regulars shook their head with confusion. It was apparent that the prosecution and the defense had run a dead heat. Only the jury would read the photo finish, and none could speculate what that verdict might be. It was now 2 p.m., and the jury retired to reach their decision.

By six o'clock, the jury had ordered a dinner to be sent to the room and the haggling continued. The attorneys waited impatiently, each calculating the good and evil of a jury that remained out too long. It could have a variety of implications, but none wanted to consider what they might be. Ken Bora waited in the holding cell. A long, agonizing wait. At 5:30 p.m., the jury foreman had sent Judge Donald Carroll a note. The jury was hopelessly deadlocked. Carroll reconvened the court.

In open court, the judge asked each juror individually if they felt, with further deliberations, that a verdict could be obtained. Eleven stated that they were confident that with additional time, they could agree upon a decision. One juror adamantly maintained that no amount of time would change her mind. Carroll ordered them back to the jury room.

It was now after six and the dinner had been delivered. Surely something must transpire with that much time. Perhaps the stubborn juror would be influenced to change her posture, but which position did she hold? Maybe she was the blessing Tessmer sought. Perhaps she was the curse. He wondered.

At 9:45 p.m., Carroll again convened the court. The foreman of the jury had again forwarded a message. No unanimous decision could be reached. They were deadlocked more hopelessly than ever now. Carroll tightened his lips with resignation and announced that the proceedings would be declared a mistrial.

Ken Bora closed his eyes. It was not a conviction, but it was not over, either. Hunter Brush was already announcing to reporters that the District Attorney's office would seek yet another trial. No, it was not over. Bora glanced about the room, already feeling the urging of the bailiff to return to the Smith County jail. His eyes met those of his former partner, Frank Hillin. Bora smiled with a nod. He understood. Hillin had placed the Point 21 Club and Anothre Place up for sale. The officials in Austin had

recommended that the liquor license be suspended and Hillin had been granted a grace period in which to sell his interests in the clubs. Yes, Bora understood. He understood that some mystic authority had denied him of his freedom; had charged him with illusive crimes; had perjured themselves in testifying against him; had resurrected his past with connotations that were never a reality; and now were taking from him the promise of all his tomorrows. The clubs that had brought him closest to his dreams than had anything else in his life, were now being removed from him by the same force that had confined him to his purgatory within Smith County.

In his bitterness, Kenneth Andrew Bora did not know that he had much for which to be thankful. He could be especially thankful for one stubborn lady who refused to alter her decision, for it was only her vote that had saved him. The other eleven members of the jury had voted for conviction.

It was mid-October when Dallas Morning News reporter, Howard Swindle thumbed through the stack of morning mail. Most of the letters bore the efficient, neat appearance of business mail, and it was perhaps the unkempt, sloppy appearance of the envelope that attracted his attention. The writer had used all of the available space on the envelope in writing "Dallas Morning News" and had no room left for the final "s". He (or she) had simply placed the s beneath the word "new", and it appeared that an effort had been made to distort the writing, making it difficult to identify. Even the postage stamp had been placed upon the envelope upside-down. There was no return address. Carefully, Swindle tore away the left margin of the envelope and withdrew the message.

"To: Creig Matthews and Kim Ramsey.

"It is time to tell the truth. We want you to tell the Feds or news media about all of the people you framed in PLANO and TYLER.⁹⁵ Failure to do so will result in action similar to what I did in Tyler.

"I know about Creig's brother in Odessa and sister in Snyder and also

95 The words capitalized here were capitalized in the actual letter and have been reproduced here in their exact form.

Ramsey's family and Karen Brooks. I will stop at nothing to get to the truth. You may even be able to get Federal immunity at this early stage if you tell all you know. Do not take this lightly as my first sign to you will not be very pretty for Ramsey. I have never forgotten my frame and I have been watching you and I know about a lot of other frames. This letter is not a threat, it is a promise (believe me). Don't wait for a sign. You will never be police officers again anyways. They are just waiting to get rid of you in Tyler anyways. This is your last stop. Come clean. Do not wait or you will go to JAIL also. Get immunity now. Tell all, do not leave one frame out, I mean it. I may not know all the frames but I am close. Remember Mary Lou H. Your families⁹⁶ will not have protection forever. "FRAMED"

Swindle immediately contacted Smith County authorities and informed them of the letter he had received. At their instructions, he forwarded copies of the letter and the envelope to their offices. Additional copies were made available to the Federal Bureau of Investigation. Throughout the months to come, none of the law enforcement agencies would be able to determine the author of this informative letter, but there is no indication as to what degree of effort was made by them.

The letter itself poses many questions of intense interest. First, one must wonder why the message was sent to Howard Swindle. It can be rather easily concluded that the writer wanted to be certain that it would not be filed away in police records and forgotten. Sending it to someone as inquisitive as Swindle would insure that some action would be taken, and would also give assurance that it would be mentioned in Swindle's writings. In this possible assumption, the writer was exactly right. Within days, Swindle was composing his article revealing the contents of the mysterious message.

Also of interest is the fact that the writer was obviously telling the truth. The author of the letter apparently knew much about the narcs. He appeared to know about Matthews' brother, who indeed lived in Odessa. He (we will refer to the writer as "he" for the sake of convenience, recognizing meanwhile that it could have been a woman writer as easily

96 The misspellings within the letter have also been reproduced in their exact form for the sake of total accuracy.

as a man) also knew of Matthews' sister, who did, in fact, live in Snyder, Texas. The writer knew enough of Kim Ramsey to know that she had a sister whose name was that being used by Kim in her undercover operation, Karen Brooks.

The reference made, "I have never forgotten my frame," may indicate that the writer was a victim of some of the narcs' prior activities in the Plano area, but could as easily be a smoke screen intended to throw authorities off the track. Such a blatant admission would have enabled investigators to review all of the narcs' prior cases and would subsequently narrow the search enormously. It is doubtful that anyone as knowledgeable as the writer would have opened such an avenue to his identity, and the suggestion that this was a purposely misleading statement holds a great deal of credence.

Likewise, it is unlikely that a person framed in Plano would have been in Tyler "watching" the narcs. That has a certain dramatic flair that is one step beyond typical realities. The letter had been mailed from Plano, as testified by its postmark, but Plano is a short distance from Tyler and this fact lends little validity to the idea that the writer was a framed victim of some past activity of the narcs in Plano itself. It would have been an easy matter to write the letter in Tyler, drive to Plano and drop it in a mailbox.

Even so, there is an interesting comment. "Failure to do so (confess) will result in action similar to what I did in Tyler." What had the writer done in Tyler? What had happened to the narcs that could have been linked to this mysterious writer? The narcs auto had been burned, but they had done that themselves. Their apartment had been burglarized, but that had been done by a conspiratorial group of drug defendants in Tyler. The only remaining event of consequence was the shooting itself. Yes, the writer was openly suggesting that he had been the one who had pulled the trigger on the narcs within the mobile home!

If one studies the format and style of the letter, it can be recognized that it was written by someone with reasonable intelligence. There was an obvious attempt to conceal that intellect, but it leaks through in several statements. One accustomed to writing business letters or reports would have utilized such phrases as, "Failure to do so will result in. . . ." and "Do

not take this lightly as my first sign to you... ." Both phrases reveal a style of one accustomed to phrasing sentences precisely and with a flair for proper English. In contrast, there are certain idiosyncrasies familiar to East Texans. Twice, the writer used the word, "anyways." The proper word would have been simply, "anyway." East Texans have a penchant for adding an "s" at the end of the word, and this reference tells something of the writer, however insignificant.

The extent of the writer's knowledge is determined in his reference contained in the passing comment, "Remember Mary Lou H." The writer was obviously referring to Mary Lou Hamilton.

Mary Lou Hamilton was once married to DeWayne Hamilton, of Plano. Hamilton was identified by investigators as being an alleged heroin addict and a paid informant of the narcs. He was once an informant for Bob Harden, a Department of Public Safety narc who later retired. Later, he served as an informant for Troy Braswell, and was still later inherited as an effective snitch by Creig Matthews. Hamilton once operated a used car lot in Plano, but had the sideline of dealing in heroin and setting up victims for Matthews.

When the private investigator, Dennis Price, did his commendable research for the defense attorneys in Tyler, he encountered the name of Hamilton and closed his notes on the man by stating, "Hamilton's present whereabouts are unknown to this investigator."

During the period of Price's probe, Hamilton's whereabouts was unknown to virtually everyone. It was a "missing" period of his life and many have speculated since about his activities and location.

Still, it's interesting that the writer should have referred to Mary Lou Hamilton in the letter. Why hadn't the reference been made about DeWayne, the snitch who had maintained a close relationship with Matthews? Of equal interest is the recollection that when Matthews was dating the young girl he was later to marry, Patricia Diane Walker, she was caught in the turmoil of her parents' divorce and was an 18-year-old sharing an apartment with none other than Mary Lou Hamilton. This gives ample evidence to the fact that Matthews knew Mary Lou and the reference could have contained some significance of greater proportions than anyone might suspect.⁹⁷

97 Mary Lou Hamilton is believed to have reverted to her maiden name of Mary Lou Harrington. She is the daughter of a prominent family of substance and many attempts to locate her have all ended in failure.

There were rumors within the Plano area that Matthews had bedded Hamilton's wife, but only rumors. Had they been true, however, certainly it would have angered Hamilton and prompted the reference that Matthews should "remember" the woman as a subtle warning and clue to past offenses. All such events took place in Plano, Texas, long before the Smith County debacle. In view of this, one is returned to the original claim of the writer that he is native to the Plano area. At least, this would be a surface indication.

One could easily conclude all of the above, if it had not been for the report of Dennis Price. All of the information contained within the threatening letter was available within the report the private investigator had furnished to Tyler attorneys and had floated about in legal circles at some length. One could just as easily conclude that the writer was someone with access to the report, and someone who wanted to frighten the narcs into revelations of the deeds. This opinion gains further support in the statement found within the letter, "They (Tyler police) are just waiting to get rid of you in Tyler anyways." The writer apparently knew that the narcs had fallen into disfavor with the local police and that the rumors within the department claimed that there would be few tears shed when the narcs went on their way. Further suggestions that the writer knew a great deal of the workings of the internal affairs of Tyler are indicated in the suggestion, "You may even be able to get Federal immunity at this early stage if you tell all you know." The writer was knowledgeable enough to know that the narcs would get "Federal" immunity. One of lesser knowledge would have simply referred to "immunity" (if they knew what immunity was at all!) and not precisely identified it as "Federal immunity." No, the writer was intelligent, knowledgeable, and possessed a sound working awareness of the legal system.

It is interesting that even though the letter contained a well defined threat, "Do not take this lightly as my first sign to you will not be very pretty for Ramsey," future events were to prove that this threat was never enacted. It was apparently a message intended to instill fear and was not the omen of things to come.

It was not chivalry that brought the decision to have Kim Ramsey housed in the Tyler City Jail. It was a matter of pure calculation. With Creig in the hospital, Kim would have been living at the mobile home alone and it was, after all, the scene of one attack already. She was the only remaining witness of value, and she was prized by Tyler authorities. The second-most valuable witness was Tim McGuire, and so he was also moved to the city jail. Both were termed as being in "protective custody."

Kim moved her personal possessions to the jail and those things that could not be housed within the small quarters were placed in the department's property room for safe-keeping. She and Tim had the freedom to do many of the things they wanted to do, but their main occupation was to visit Creig in the hospital and to call for a patrolman to drive them to and from the jail while providing protection for them. It was not a bad life, but it was, to say the least, restraining.

Not all of Kim's problems centered around the horrors of the drug bust, however. She had paid Mitchell Frazier \$1,000 down on the mobile home and had lived in it about four hours when the shooting occurred. She had talked to Frazier after that and the man had indicated that he would refund her money, that he could clean up the mobile home and have it repaired and sell it again. She had been relieved with his comments, but when no money was received from him, she had become concerned. Now, she learned, Frazier had changed his mind. He would not refund the money. Kim had to ponder the situation and attempt to understand the man's reasoning. There had been several incriminating bits of evidence retrieved from the mobile home, she knew. There had been some quantities of marijuana, some pills, a bong pipe used to smoke pot. When she had been asked about the illegal items, she had stated that they were found within the mobile home after she and Creig had moved in. Apparently, they had belonged to Frazier. Maybe Frazier was angry about the allegation, but he had never indicated it in his earlier conversation with her. No, that probably wasn't the reason.

Finally, she knew nothing else but to call Mitchell Frazier and ask him why she wasn't going to receive her \$1,000 back. Frazier was cool toward her. His comments were direct and preemptive to his hanging up the phone. He wasn't going to repay the money because the Smith County

District Attorney, Hunter Brush, owed *him* money! Kim could not understand the rationale, but soon came to believe that citizens always delegate city employees as extensions of the system. She would be penalized by Frazier's claim that Brush owed him money, therefore, Frazier would keep *her* money as a strange form of retaliation. Angrily, she visited Brush's office and asked that charges be filed against Frazier for fraud, extortion, illegal business practices, whatever the DA could determine as an illegal act. Brush listened politely, made cursory promises, and did nothing.

The thought of the Bora trial weighted heavily on her mind, as well. The second jury had ended with a mistrial. The omen of that was significant. It would be far more difficult to convict Bora than had first been believed. She didn't care particularly about the conviction, but the longer the mistrials continued, the longer she and Creig would have to remain in Tyler as witnesses. She disliked the thought of that immensely.

It also occurred to her that in the course of the second Bora trial, Cherie Paro had been transported to one of Texas' women's prisons to serve a short term categorized as "shock probation." Within this unique system, a felon is sentenced to prison for a short period that will hopefully impress them with the consequences of crime and upon returning to society to fulfill a parole, their demeanor would, officials believed, be greatly improved. Now, Cherie was confined in Goree and the Tyler Morning Telegraph reporter, Margaret Watson, had accompanied her to record for a special feature the events of her first day in confinement. Kim had read the article with interest, recalling that moment when young Cherie had looked tearfully toward, sobbing, "No, Karen.... not you! You're my friend!"

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Cherie Paro was wise enough to know that she would have to have some goal in mind to make the time at Goree State Prison bearable. She also knew that she had lived, within her short life, a time of unusual drama wherein she had been both guilty and victimized. It was a paradox of a tale, and to spend the time, she decided that she would write a book and selected the title, "Tyler, The Black Rose."

It was not long, however, before Cherie realized that there was too much to be told. Too many facts. Too many people and places. Too many unknown factors that could not be researched from her prison cell. Too many problems in understanding the style, technique or discipline of composing a book. Even so, she continued to compose a chronicle of her days. The entry of October 5, in the midst of the Bora trial, gives a good summary of the girl's thoughts and feelings.

"Well, I woke up at 6 that morning. I looked out through the bars and saw a beautiful full moon standing between Tyler's new skyline. This is the day I go down to the chain to Goree State Farm. One of the two Texas women's prisons. I took a shower while the other five girls in my tank ate their eggs, bacon and toast. I only ate one piece of toast that morning and it did not taste so hot. After my shower, I put on my makeup. I had to go out, I thought, looking good because I just don't fit what you would picture a criminal to look like. Not me. That's how I am. I wanted to look good.

"I put my peaches shirt on. Well, actually, it was Steve McGill's shirt. I thought it would fit the situation since I was going partly because of him. Then my straight-legged blue jeans. The leather shoes Mrs. Joseph had bought for me. And then I packed my TV and clock radio for my mom to pick up that morning in the basement of the jail. I let all of the girls in my cell sign my ledger book. I had spent some lonely hours with them. At 7:30 a jailer came through and gave me a letter from Steve. The last one for a while. I sent it home with the rest of my things.

"At 8, Tommy came to the door and told me I was going. I hugged my fellow inmates and went out the door. They had not pulled the guys out yet that were going down, so they let me call Kirt and tell him goodbye. And then I called home. Renee answered the phone. I told her goodbye, then I asked for mother and told her goodbye. She said she was bringing Renee to school and then coming by to get my things. Well, I had a contact visit with her the day before and I knew she would be alright. Well, they told me to get off the phone so they could chain me up. That does seem kinda' dumb since I had pleaded guilty and turned myself in. Why all this? They say it is procedure. Well, Tommy put a big leather belt around me with a little hoop in front. He put the handcuffs through the hoop and clamped them shut. Then, they chained the other guys. Three

black guys and one white guy that had pleaded guilty the same day I did for delivery of (meth) speed to Creig. He was a good-looking redhead with pretty curly hair in a little Fro. We became friends on the trip to our new home. Well, we all went down on the elevator and then out to the van for the long, but short, trip. Tommy and J.D. brought us down. When we drove past the front of the Courthouse, I saw my mom coming out of the front door of the Courthouse with my bags.

"Down Broadway and out the Loop for the last time for a while. When we passed Kilo's and Foots'⁹⁸ I could not help of thinking of Kirt because we had bought some good wine from out there. Damn, it was just not fair to be taken from people you love! We all laughed and joked about the stuff on the way down and we all found out how long each other would be staying for drugs and armed robbery. Well, it had been a pretty short trip. Tommy drove fast. Me and that white guy kissed a lot when we finally got to the gate. I knew it would be a long time before I had a kiss from anyone and he was good-looking. That's just how I am. Woman all the way through and it would be hard without a man to lean on, even though it was for a short time. It will probably be very good for me to do without a man and other things for a while. Well, they brought me out of the van first. Tommy leaned over and kissed me goodbye, too. Then I saw Margaret Watson, the Tyler Courier Times writer in the office window. She waved and I did the peace sign back. She was there to take pictures of my new home. To do a story on shock probation. I met the assistant warden and a lady called Mrs. Ramsey (of all names! Kim Ramsey!) They asked to sign a form saying it was okay for Margaret to take pictures. We all three walked to the x-ray room first. They took x-rays of my teeth. Then to the mug shot room to get my new number. I smiled big in that mug shot. I did not want a mean looking one. Then fingerprints. They all were nice to me. Very nice. It was not at all what I expected, but that was good. Then we had to wait about an hour before the ride to Goree two or three miles away. They did put handcuffs on for the ride over. We drove up and I remember it looked like a school. The sign read "Goree State Farm." Ha! It is no farm. It is a prison with locked iron

98 Kilo's and Foots are two popular liquor stores located beyond the Smith County limits.

doors all over. Me and Margaret had to wait for the warden to okay her taking pictures inside. The other four I took the ride with went down, though. One girl, Vickie, had been there before. She had been out only five months before she got her probation revoked. Not me! We all asked her questions about how it really was. She said if you are nice they are nice back and the girls don't try to make you do anything you don't want, because they will just get in trouble. Then, finally, the warden okayed it. I first got searched. Strip down behind a little curtain in the corner. She gave me a white dress to put on. Then she gave me soap, one towel, one wash cloth, and said, 'go take a shower.' I did two doors down from my cell. A pink one. They were all different colors. I was in quarantine now, probably for a week or two. Then, she put a chemical in my hair for bugs. That was not so bad. Then, one last little search with legs in stirrups. The lady wore a glove.

"I copied my address down on paper because I could not keep my Bible where I had my address in the back. Then, at last, to my cell where Margaret said her last goodbye. We both shook hands and almost cried. The pictures before, I was always smiling, but not after they closed that door. It sounded so final. It felt so cold. I just sat there for a long time. No tears... not anyway, yet.

"Then, they brought food. The inmates bring us that. I became friends with one young girl named Pam. Then at 1:30 that night, they woke me and the other four girls I had come in with to go to the doctor's office to fill out some forms on past sickness and stuff like that. Then, back to bed at 3:30."

Cherie Paro kept her diary of the days within Goree. It was a message of despair and hopelessness. Other entries were especially revealing as the young woman endured the weight of time and the fear of uncertainty.

October 8, 1979: "Late Saturday night I got a letter from Buck (Attorney Buck Files) telling me about civil rights charges that had been filed in court Friday when I left. It was charging people involved in the drug bust of unethical things. It was supposed to be in the Tyler and Dallas papers on Sunday. Yeah. Probably cheering Kim, Creig, Lusk, Hardy, Brush...." On October 13th, Cherie wrote of her encounter with another prisoner at Goree: ". . . she is a cool chick. She saw a killing one time in the Ector County jail. Seven of the deputies killed this guy and they tried

to say it was suicide, but she saw them through the bean hole⁹⁹. They kicked him in the face. The FBI and DA and Sheriff all talked to her and she had to go to a lot of courts."

October 15th brought a special mail call for Cherie which she listed with a tone of surprise: "...Mail, and of all the people, David Phillips wrote me and told me he had talked to mother and found out I was here. . . ."

David Phillips, son of Texas District Judge Glenn Phillips. The son of a state official stationed in Tyler who was to include in his letter the statement that he had lost contact with Tyler and most of the people he knew in it, "But I'm not griping, because Tyler's not good for anybody, as you well know."

Cherie could not agree more. Yet, she had resolved that she would return to Tyler and re-establish her life as evidence to all that she was not the criminal portrayed by the words of the prosecutors. She would return and assume a normal existence to prove to all that Cherie Paro had erred once, but perhaps the prime error had been her belief in the friendship of Creig Matthews and Kim Ramsey.

Only a few miles from where Cherie Paro was enduring the hours of her torment, Russell E. Warrington was clutching the bars with whitened knuckles and recalling the days of freedom on the streets of Tyler, Texas. It was later that he would compose a statement that resembled those messages cast from orphanages asking anyone to listen to the special plea of one lost within an institutional system.

"I Russell E. Warrington hereby submit this to (left blank) to use as proof as to how I was entrapped into buying and selling drugs to Creig Matthews."

Warrington's plea was so desperate that he didn't even know who would be receiving it, and he submitted it to the world-at-large, to anyone with enough interest to listen to his 'tale. He may have forgotten many

99 In prison jargon, the "bean hole" is that slot in a cell door where trays of food are inserted to prisoners.

things about his life in Tyler, but the dealings with Creig Matthews were yet indelible upon his mind. Yes, he had forgotten many things.... even the moment when he had ridden in the van on the way to prison and had shared kisses with the slender girl, Cherie Paro.

"It was in early November of 1978 when I first met Creig Matthews at a bar called Point 21 located in Tyler, Texas. The very first time I met him, he introduced himself as Jim Myers and we started a conversation about rock-n-roll music and as we talked, he brought up the subject of drugs. He asked me if I could score him some dope. He offered to front me \$200 on the spot to score some speed or pot for him. I refused and as the night progressed, he bribed me with free liquor and I feel like he thought I might loosen up with a few drinks. I didn't.... and later on that evening, he gave me his phone number and name and also invited me over to get high. Which I did.

"The following weekend, I saw him again and he asked me if I wanted to score, that he had some good speed. This same weekend, I did go to his apartment and his so-called girlfriend played on me to make love to her. Without success, she left and then Creig showed up with the dope. He turned me on for free and I asked him to fire it up first, which he did, then, so did I. We talked and I set up a deal for him to buy some from me. Two or three days later, I met him at the club (approximately 11-12-78). I went inside and found him. We went out to his car in the parking lot of Point 21 and he fired the speed up and said it was good. He paid and I left.

"The next day, I contacted him again and he said he wanted more. I said I could get five grams and he said to meet him at his apartment after the club closed. I showed up and Creig, Kim Ramsey, and myself shot the dope up and then we smoked some pot. We talked for a while about a future sale. I said I would contact him when I had something. Around the last of January or first of February, 1979, I contacted Creig Matthews and we made plans as to where and when the deal would go down. I showed up with one-quarter of an ounce of what some people call bathtub speed. It was made from Benzedrex nose inhalers and hydrochloric acid; two items which can be purchased at any drug store without question. We met and I sold it to him for \$350. Creig, Kim, me and two of my friends were present. I took the money and split.

"The next two weeks went by without me contacting him and when I finally did, he was hot enough to explode. He said he wanted an ounce of the speed, which I could not get at the time. I told him it would take at least another couple of weeks because my connection was out of town. When I called back in March, around the 10th of March, I said I could only come up with one-quarter of an ounce. He said, okay, to come on with it. When I arrived in Tyler, it was about sundown on a Sunday evening. I called him from the 7-11 store next to the apartments in which he lived. He said not to come to the apartment. He said someone was there who wasn't cool. I told him that me and the same two guys who were present the last time were going to come over anyway. He got really hot about me bringing my friends. He said to leave them at the 7-11 store and for me to walk to the corner of the apartments at the back. I got my friends to drop me off and then park nearby so they could keep an eye on things because I felt he might try to steal the speed from me. I stood on the corner until Creig appeared. He asked me if I had the stuff. I got it out and handed it to him. He asked if it was the same as the last and I said yes. At that time, he pulled a .38 on me and said the dope, and I quote, "Isn't worth a mother fuck!" I jumped from the fright of the gun and he said, and I quote, "Run mother fucker, and I'll kill you." He told me to walk up next to him and be cool. We talked for about 30 minutes and I was pleading for my life. He looked like he had the Devil in him. He was in bad need of a fix. He was hurting and a person in that shape will do anything to get a fix. He took my billfold, keys, and my money off of me and told me to turn around and walk off. I felt that if I turned around he would shoot me, so I told him my buddies were about 25 yards away and was watching every move we made and that if he pulled the trigger, he would fall just as fast as I would.

"He gave me until sundown the next day to get his money back to him and if I didn't, he would come to Dallas and shoot my mother and me if that's what it took. He threw the bag of speed on the ground in front of me. He said to get it and split. I picked it up and he said, and I quote, "I bet there's a lot of people's names in this billfold." He kept all my property and told me to turn and walk **off** and not to look back. I was in fear for my life, but I did what he said. I shook all the way back to Dallas and me and my partners talked about it. We agreed that he would

have to come to Dallas to collect his money.

"In conclusion of this, I was busted in April around the 12th and charged with four counts of delivery of pure 100 percent meth. The dates charged were November 17, 18, 19 and 20. I did sell him good speed on two counts, but the third was one-quarter ounce of homemade speed. I did not sell four consecutive days in a row to him or anyone. I have served sixteen months so far and feel that if this is the kind of law enforcement people we have working for us, the people of the US of A are in deep trouble. The whole city of Tyler is corrupt and needs checking into very, very deeply. If you have any further questions please contact me. I am very interested in settling this unjust act.

"Russell E. Warrington"

The response and attitudes of the convicted youngsters was consistent. They were typically to admit that they had committed crimes worthy of prosecution, but were to deny the details of those crimes for which they had actually been convicted. Perhaps a moot point in the minds of some, but a very important factor when one is behind bars. At least, it was to become a vital point to the few who were interested in the purity of justice.

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On December 3, 1979, the third trial of Kenneth Bora began. Again, the state was attempting to prove that Kenneth Andrew Bora delivered cocaine to Creig Matthews while Kim Ramsey was witness to the transaction. In boring repetition, the jury was again composed for four women and eight men. The District Clerk wearily called 84 prospective jurors and about thirty of them were excused when they told Judge Donald Carroll that they had already made up their minds about the defendant's guilt or innocence. Carroll later released fifteen more, reducing the roll call to but 37 persons from which the attorneys finally selected twelve.

For Bora, the trial was significantly different from the previous two. This time, he was attending his trial as a relatively free man. On November 16th, his attorneys finally convinced the court to establish bond for their client in the amount of \$200,000. Bora was not truly free, but he was nearer to being free than he had been in a very long while.

Unlike the previous trials, the third one took on an interesting element. The narcs claimed that on the evening of December 31, 1979, Kenneth Bora had invited them to his home to attend a party where there would be an abundance of free cocaine. They reportedly declined the invitation, but later testified as to the invitation. It is difficult to believe that the invitation would have been refused, knowing that the narcs were themselves users and hungry to make a case on Bora, but they persisted in their claims anyway. As a result, within the third trial, the issue of Ken Bora's whereabouts on the night of New Year's Eve, 1978, became a greater issue than the date of March 31, 1979, the date Bora was to allegedly have sold cocaine to Matthews.

Charles Tessmer was to say that the narcs had made a basic error in creating the story of the mythical drug party on the night of December 31st. "Everybody knows where they spent New Year's Eve," he was to say. "That was their mistake.... in not choosing a nondescript night to use for their story."

Allen Barrett, manager of Anothre Place, testified that Bora had been taken ill that day and had left work early. Barrett had called his personal physician who prescribed medicine for Bora. A bottle of medicine was entered into evidence, revealing the date of December 31st on its label, giving credence to Barrett's tale.

Joan Tobias of Lindale, a community near Tyler, was to later recall that she had called the Bora residence on the night of December 31st. She had boarded some horses for Mrs. Bora and had called to discuss them with Bora's wife. Ken had answered the phone and informed Mrs. Tobias that his wife was out of town and that he was at home because he was ill. Again, the story gained verification. To add to the impact of Mrs. Tobias' testimony, it was revealed that she was the wife of the former chief of police of Lindale, Vernon Tobias. Ironically, Mrs. Tobias recalled the incident and learned that her testimony might be valuable to the defense. She mentioned it to her former-lawman husband, who told her not to mention the incident.

Again, the defense attorneys displayed the slides showing the hallway where the alleged sale took place, taken at a time much later with photos being snapped at 30 second intervals. None of the pictures revealed a time when the hallway was not occupied by patrons. It was revealed to the jury

that on the night the photos were taken, the club had grossed \$1,750.65, and on the night of the alleged sale, the club had grossed an impressive \$3,142.25. It was obvious to all that if the photos proved that the hallway was never vacant on the night they were taken, it would have been literally crowded on the night of the reported sale of cocaine.

It was now apparent that if Kim Ramsey had been sitting at the table where she had testified earlier, it would have been very difficult to witness the drug transaction taking place in the hallway. Too many people would have been milling about, obstructing her view. The solution was simple. Kim now altered her testimony. Now, she had been standing in the hallway, only fifteen feet from Matthews and Bora. "I do not recall sitting at a table at any time," she testified.

The trial ground to a slow conclusion with the details now becoming boring with their repetition for the third time. New evidence and changed testimony may have been its hallmark, but it was, after all, the third round in a long fight. The jury was excused to reach their verdict on Friday, December 7, 1979, Pearl Harbor Day.

By 10:30 Saturday morning, the jury informed Judge Carroll that it was hopelessly deadlocked at 6-6. Another mistrial was declared. Again, Hunter Brush resolved that Kenneth Bora would be tried again on the cocaine charge. Nothing had changed.

"I stopped this kid for a traffic violation and found out that we had some warrants out for his arrest. I put the cuffs on him and he turned to me and said, Why are you messing with me? Why don't you arrest those crooked bastards downtown in the police department?' Let me tell you. ... that's damned embarrassing!"

A Tyler Policeman

REVENGE AND REBELLION

If things had appeared to change little in the future of Ken Bora, it was changing drastically within the Tyler Police Department. Creig had been released from the hospital in the third week of October and Willie Hardy arranged for them to find sanctuary in a small house located on the Old Chandler Highway near Highway 31. It was built of native rock and known throughout the region simply as the "red rock house." The house, in reality, was more of a target than a sanctuary. It was located in the immediate proximity of three major routes, making access and escape a matter of incredible ease. Inside, it was filthy and roach infested. Matthews would actually be awakened by the sensation of cockroaches feeding on his open wounds. If there was any relief to be found within the dwelling, it was that Tyler policemen had been stationed nearby to provide an element of protection.

Within the house, Matthews, Ramsey and McGuire lived in the squalor and yearned for the days when the trials would be ended and their service as witnesses would no longer be required. Still, the conditions were unbearable and Creig's wounds had begun to fester in crimson circles forming about the long incisions made by physicians attempting to correct the damage done by the shotgun blasts. At first, each member of the trio had been happy with their relocation. Creig had tired of hospital life and Kim and McGuire were ecstatic with the idea of being free from the re-

straints of protective custody. Now, they could resume a life-style with some element of freedom, even within the disparaging surroundings of the red rock house.

Within days, however, Kim was calling Hardy with complaints about the conditions at their new home. Matthews was to recall that, "....Before long, we started seeing cockroaches as big as polo ponies. They were everywhere. You could hear them moving around at night." The three residents of the home were becoming convinced that they had been better off at the mobile home, taking their chances. For Hardy, the complaints were distressing. He would have liked to have shed himself of the narcs, to forget that they had ever existed. He would have preferred the impossible. A situation where he would have the 121 indictments but without the dependence upon the narcs for their crucial testimony. Still, he knew their statements were vital, and he would have to take some measure to keep them happy.

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In the fall of each year in Smith County, there is an unusual celebration known as the Tyler Rose Festival. If there had indeed been a division between the "haves" and the "have-nots" it was never more candidly demonstrated than within the structure of this bizarre event. The program of the festival calls for the selection of a Rose Festival Queen and an extensive list of Maids-of-Honor and Duchesses. Each, however, must have family roots associated with local wealth in order to afford the vast expenses of participation. The Queen's family, as an example, must be able to afford the coronation gown that typically costs in the range of thousands of dollars. Many of the gowns have been hand sewn and produced by artisans in Europe. The Queen's family must also be able to foot the bill for a public tea wherein every citizen of the area is invited to attend. This, too, can amount to thousands. Likewise, the Queen's entourage must be able to afford gowns comparable to the Queen's, thus limiting participation in the event to only those of substance, and of course, the accompanying factor of influence. A Tyler radio talk show host once stated in criticism of the Rose Festival that a parent could hypothetically have the most beautiful daughter in the state. This mythical

beauty could win every available contest, including the coveted "Miss Texas" and indeed, "Miss America." Yet, if she did not originate from a family of wealth, she could never.... never.... become the Rose Festival Queen. Even so, the Queen is selected to represent the city as a symbol of beauty, but is typically not the "most beautiful" candidate available. She is, to be brazenly honest, only the most honored among the region's wealthy class. Unfortunately, wealth does not always guarantee beauty, and some Rose Festival Queens have fallen rather short as symbols of beauty, charm, grace, or any of the qualities typically sought in a ceremonial queen.

It was in the fall of 1979 that the Rose Festival again took place. With the event comes a parade that serves as a backdrop for the Queen's appearance, and the long procession usually features floats constructed of area roses. The event usually brings to Tyler many notables, who for one reason or another, find a need to make public appearances. In that year of 1979, the Dallas millionaire, H. Ross Perot, was present in the stands watching the parade.

Perot was a symbol himself. He represented the great American dream where a man rises from obscurity to a place of national and international prominence. From the ranks of the nation's computer salesmen, he had climbed to the heights of that service industry with the forming of EDS, Electronic Data Systems, Inc. He had captured national attention in the early 70s when he formed the United We Stand organization; a movement bent upon gaining the release of American prisoners of war from Vietnam. He had personally gone to Vietnam in an ill-fated attempt to secure the release of POWs, and the organization soon withered after the refusal of Communist authorities to negotiate the issue. At the turn of the decade, however, a group of Perot's workers in Iran were detained by the government of the despot, Khomeini. Unlike the federal administration of that time, Perot decided to take matters into his own hands and hired a retired Marine officer to train and organize a group of men who were to become a rescue team. They traveled to Iran secretly and executed a rescue so dramatic that when the United States Embassy personnel was later imprisoned by the Iranians, a Texas songwriter composed a tune that gained popularity while calling, "H. Ross Perot, where are you when we need you now?"

Because of his involvement in the critical issues of the times, Perot

was later appointed by the Governor of Texas to head a "War on Drugs" commission that was to study drug traffic within the state and make specific recommendations on how it could be best controlled or combated. While the commission gained considerable notoriety, little was gained from their efforts. Actually, it is a little-known fact that Perot had a personal interest in the Texas drug culture that had brought him to a new level of hatred for its trafficking. On the spacious lawns of EDS, Perot had erected an impressive display of lights and figures during the Christmas season. It was one of the most beautiful displays within the Dallas area. During the 1978 Christmas season, vandals moved quietly in front of the building and destroyed the display with clubs and hammers. Perot was later to charge that it was the work of people "strung out on drugs."

While Perot's commission on the "War on Drugs" was not impressive as an effective body, the small man who had become a millionaire with alarming speed was not to be forgotten by Texas politicians. Later, in 1983, Perot was to head another task force to study the education system in Texas and from that came sweeping reforms within the state's approach on academia. Perot had finally gained a political victory of sorts, but always remained silently in the background, rarely speaking publicly about any of his activities on any level of government, business or social encounters. It was simply his nature, and it brought him an even higher esteem from an appreciative public.

It was Ed Wagoner who took Willie Hardy in tow and led him through the throngs of the Rose Festival to meet H. Ross Perot. The conversation was brief with cursory introductions. Finally, Hardy was to ask, "Mr. Perot, we have a police officer who has been seriously wounded. It would mean a great deal to him if you could speak with him for a moment."

Perot quickly agreed and was taken to the red rock house that he was to later describe as being "filthy." He spoke with Matthews and Ramsey and determined that Creig was in poor physical condition. His recovery was not being enhanced by the conditions within the house.

"It's the only place we've got to put them," explained Hardy apologetically. "And we're afraid that whoever shot them will come back to try again."

H. Ross Perot is a man given to quick decisions and spices them with

stipulations that ensure that things will be done on his terms. He stated that he would move the narcs to a safe location away from Tyler. He would see to it that Creig got proper medical attention. He would provide security to be certain that they were kept safe. But, he added, it must be done with the agreement that there would be no publicity about his involvement in the matter.

On the surface, it appeared that the ideal bargain had been struck. The narcs would now be free from the pestilence of the red rock house and Willie Hardy would have initiated the move, thus keeping the allegiance of his prize undercover agents. All that was needed was for a mutual time to be set for Matthews and Ramsey to move into the realm of Perot's protective arms. It was agreed that Perot would immediately consult with his security people to locate a place of safety and that once the narcs were ready, they would call for his response. It was understood that a certain amount of haste would be needed, for Creig's condition was worsening daily. Yes, it was the best of two worlds. Willie Hardy would have the narcs out of the immediate area, thus free from the probing eyes of people like Dennis Price, and yet he would have the benefit of someone as prestigious as Perot involved in the case. Who would doubt the credibility of the narcs once they were under the protection of someone as lofty as Perot?

As always, things did not go as planned. It was Hardy's idea that Matthews and Ramsey would contact him when they were ready to move and that he would play the pivotal role in gaining them entrance into the security of Perot's organization. But by this time, Hardy's esteem in the eyes of Matthews, Ramsey and McGuire had faded to such a degree that they planned something quite different. Creig was to recall the incident years later with a glint of humor. "We just called some friends in Dallas (probably Perot's contacts) and said, 'Come and get us.' They came down there. Kim told the guard, 'We're going to sell some of our stereos,' and we loaded up everything we had; stereo, clothes, a Doberman Pincher, and left. And they didn't know we were gone until two o'clock the next day! They didn't know where we were at for two weeks! Hardy said we had relocated in Dallas. He didn't have a clue where we were."

It was an awkward situation for Chief Hardy. He couldn't call Perot and ask the whereabouts of his employees. That would be too embar-

rassing. No, he would have to rely on the investigative powers of the department, and it would take time. Yet, it was equally embarrassing that the narcs had "escaped" without detection by their security guards. It was more than apparent that if there had been someone intent upon killing Matthews and Ramsey, they would have found the task very easy within the protective arm of the Tyler Police Department at the foreboding red rock house.

"We took Creig to see our old doctor in Plano," stated Kim Ramsey five years later, "and he said Creig's arm was infected and his leg was infected and he had to go to the hospital. They didn't know for a while if they were going to be able to leave his arm and leg attached."

Under the umbrella of Perot's protection, Matthews had checked into a Plano hospital where his wounds had been cleansed and antibiotics scheduled. Things were now better than they had been in a very long while. Perot had arranged a comfortable place for them and his security staff kept in constant contact, usually asking politely if everything was all right. There was no intrusion, no meddling, just the simple inquiry, and the system pleased the narcs immensely.

It was in the midst of his new sense of security that Matthews heard the light rapping at the door and beckoned the caller to enter. He felt his heart sink with the sight of Assistant Chief Kenneth Findley and the attorney-in-residence of the Tyler Police Department, Charles Clark. The discussion was all that Matthews would have expected. He was accused of betraying the department, of lowering its reputation by sneaking away from the protection it had provided. It was a black eye on everyone who had sought to help him, and he could be certain that he would be held to his agreement to appear in court as a trial witness in the pending cases. The message was all too clear. He and Kim were ungrateful wretches who had better fulfill their obligations to the city if they knew what was good for them. There was anger between them when Findley and Clark left Matthews.

Soon after the departure of his unwelcome visitors, an administrator of the hospital appeared in Matthews' room and tersely informed him that the hospital was no longer interested in having him as a patient. "If you don't want to treat me," replied Matthews, "then I'll leave." He was later to recount that as he was waiting for his ride, lying in bed, "Findley called

back and jumped my ass again...." Matthews was later to learn from Mike Lusk that Findley had been totally enraged when it was discovered that the trio had fled from the red rock house, stating that "...he was going to come up there and kick my ass."

With Perot's influence, it was easy to gain entrance to another hospital, and Matthews now rested with the new concern of whether or not he would ever be free from the purgatory of Tyler, Texas.

For weeks, the icy relationship between the Tyler Police Department and the narcs continued. Finally, the tension grew unbearable and Hardy called Kim informing her that she would either have to return to Tyler and resume her duties or tender her resignation. "Write you a letter of resignation?" laughed Ramsey, "Chief, I'll write you a book!"

With DPS guards providing a rental car and en route protection, the narc team returned to Tyler where Kim went to the police station and quickly went to the dispatcher's office and typed a short letter stating that she was submitting her resignation with the typical two weeks notice. She signed it and left it at the desk for Hardy to receive the following morning. Now, it was official. The narcs were no longer employees of the Tyler Police Department.

Still, the question remained if the city could force the narcs to testify in the pending trials. It was a monumental question, for the Bora attempted murder trial was set for the following May. By then, certainly Creig would be in fit condition, but there had to be something done to resolve the chasm existing between the city powers and the renegade narcs. Meanwhile, all that existed between them was a long, unbearable silence as if they were ignoring one another.

The door of renewed communication was opened when Ed Wagoner received a brief note from Kim revealing that the narcs were upset about a matter that had not yet come to his attention. Creig was to remember the event with precise detail: "After I was shot, all our personal property was put in the jail. During the time it was there, about \$2,300 worth of jewelry and our clothing was stolen out of the jail. So it was stolen by the police. We wrote Wagoner a deal and told him we wanted to be reimbursed for

what we had been ripped off for. He said, 'Come on down.' All we asked for was \$2,300 which is what we lost. He gave us a check for \$6,000, approved by the City Council! It was pretty obvious - it was hush money."

Kim had also continued her complaints about the \$1,000 she had lost to Mitchell Frazier as the down payment on the mobile home. This question was well known to most of the officials, but had never been considered seriously by any of them. Hunter Brush had refused to file charges against Frazier to recover the amount, thus verifying that the complaint had been lodged some time earlier.

Kim was to recall, "It (the \$6,000 check) came out of the General Fund Number One. He (Wagoner) said, 'We can't reimburse you for the things that were taken. We can't reimburse you for the \$1,000 down payment on the mobile home....'"

If Matthews and Ramsey's statements are true and Wagoner announced that the narcs could not be reimbursed for the loss of their property in the jail or for the loss of the down payment on the mobile home, what then, did the \$6,000 represent? The total amount of the losses claimed were \$3,300; thus, why was the check made out in the amount of \$6,000? By what mystic formula was this amount determined?

One thing is certain. The \$6,000 did a great deal to re-establish some rapport between the narcs and the city powers. The narcs now agreed to be available for testimony in the pending trials, even though the relationship with the city officials was still strained. Perhaps now, however, it would be a situation bearable by all. The narcs were no longer a visible thorn in the city's side, and the team of Matthews and Ramsey were enjoying something they never felt they had in Tyler - the protection of someone they could trust.

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Time moved quickly. The pages of the calendar fell, passing the holiday season and entering the new year of 1980. A new decade that perhaps would be filled with promise. The prosecutors within the District Attorney's office were busily preparing their case against Kenneth Andrew

Bora and their work was with a new resolve. This time, there would be no mishaps.. .. no mistrials to dampen the professional reputations. They would get Bora on this one. They simply had to.

A satirist once wryly remarked that if a good plan could ever be really screwed up, all it required was one honest person. This humorist's adage proved all too true in the time of the preparation for trial when Officer Keith Gwaltney could no longer keep the information he knew to himself and appeared before Assistant District Attorney Chris Harrison. Gwaltney was later to recount the experience in a sworn statement:

"On September 13, 1979, in the early morning hours, I was on duty as a security guard at the Medical Center Hospital. I was present when a victim of a shooting by the name of Creig Matthews was brought in the hospital emergency room. Mr. Matthews was taken to trauma room 3. A short time thereafter, Kim Ramsey and Tim McGuire came into the emergency room. I was requested by Miss Ramsey to guard Creig, her and Tim while they were in the hospital emergency room.

"I was present in the trauma room when Creig raised his head and asked Kim who shot him. Her reply was that she did not know because it was too dark.

"I told prosecutors this information at or before the time of trial, and I was instructed to go back on the street and to forget that I had been to their office."

Gwaltney was to elaborate by stating that he heard Chris Harrison remark that he (Harrison) knew that Bora was not guilty, but since the State could not obtain a conviction on the drug case, Bora was going to get convicted on the deadly assault charge.¹⁰⁰

In addition to the threat of Gwaltney's knowledge, there was now an undercurrent within the police department wherein no one trusted the other and rumors flowed concerning the conspiracies at large within their midst. Officers secretly sent out letters inquiring about positions on other police departments and they spoke in whispers about who could be trusted and who could not. It was agreed that they would have to find someone they could relate to who would not report immediately to Willie Hardy.

¹⁰⁰By this time, Bora's attorneys had been successful in having the Attempted Murder charges reduced to Deadly Assault.

There was too much rapport between federal authorities and local powers. No, they could not speak with them. Yet, there had to be someone, and they agreed to consider the matter until they could agree on one person of influence who would listen to the horror stories they had to tell of the inner-workings of the Tyler Police Department.

There can be little added to the comments of former Tyler police officer Phil Megason. His testimony in a sworn statement reveals a profile of the workings of the Tyler Police Department during the period of 1978-1981 far more candid than any this author could provide. He was to relate that he had changed shifts within the department, and his tale unfolds dramatically from there:

"... My wife was pregnant at the time and I thought it would be easier for me to be on midnights if I could get transferred. And, they agreed to do it. Normally, when you put in a request for a transfer to another shift, they make you wait a year, when it's your request. But they had made a request for officers to change and I had volunteered to go to days.... Tony Nash was patrol commander and he called me in the office one day when I was up there and said that it was unusual for us to do this, but we're going to let you go to midnights, and so I went to midnights. I got up there and I started hearing all kind of stuff about the break-in¹⁰¹ and things about the Chief of Police. Who he was shacking up with and all this....

"There was another officer on that shift who, when I first wanted to join the police force, I talked to him about it. I wouldn't say that we were close friends, but later, it was made out to be that we were the worst of enemies ever to face each other and all that. That wasn't true either.

"I was on midnights maybe two or three weeks. I had gotten off shift one morning and I went out there and one of the tires on my truck was flat, so I thought that maybe I just had a flat tire. The people who put the tires on, they came up and fixed it ... took the tire off and took it and fixed it and all that.... and I didn't think too much of it. I just thought that it went flat. Then, about a month and a half later, I had a flat on the

101 The break-in of Dr. Allen's office mentioned earlier in this writing.

same side of the truck and they repaired it, and I had driven home, which is out there past Kelly¹⁰² and the other tire had gone flat.... the tire on the rear had gone flat and I thought it was a little coincidental, because there was no glass or nails, nothing but a puncture to the tire. I didn't report it to nobody, but it was a kinda' queer set of circumstances. So then, along about January, 1980.... I'd say it was right around the 16th, which was on a Wednesday, I remember that.... I got a phone call at the house. The first phone call. I got two, that's why I say the first one.... was from a woman. She told me if I didn't keep my mouth shut.... I don't remember all of the swear words.... cussing.... and quit being a super-cop.... I remember that word.... something was going to happen to me. I said, Well, I'm not worried about that. And she said, If you're not worried about that, what about your family? And I said, Well, I'm not worried about that, either. Because if you come bothering my family or something like that, I'll take care of that, too. I just hung up the phone.

"It was about fifteen minutes later, a man called back. Gave me the same rigmarole.... and he wasn't talking in a normal voice. The first one was a female and she talked in a regular voice. The second caller was a male and he talked in a whispered voice. And he said roughly the same thing. So when I went in that night to work that night it was bothering me a little bit and I was talking to David no, not David.... to Gorie Loveday.... We were down in the locker room getting dressed before shift and I was telling him about it. It bothered me enough that my eyes were watering.... I wouldn't say I was boo-hooing, but I was upset.... and he told me I ought to tell someone about it. Not to just slough it off. So, I got dressed and went upstairs and, I don't remember if it was Mike Lusk or Al Griffin I met at the door, but it was one of them.... and I told them about it. I want to say it was Mike. Yeah, it was Mike. He told me I probably ought to write a letter to the Chief about it. Al Griffin, after the shift, he told me I would have to.... that I should go over to the Sheriffs Office and report it as a threatening phone call, or something like that. So, I wrote my letter up and I went over to the Sheriffs Office and, on Friday night that was Wednesday, the

102 Megason refers to the Kelly Springfield Tire Company who has a manufacturing location near Tyler.

16th.... because this was the eighteenth.... I got another phone call from the same woman. She told me I was still shooting my mouth off. But I had told them (the authorities) what had happened, about the phone calls, but that was about all that had happened."

Megason related then the account of all he had heard in the variety of stories offered by Ramsey and McGuire and how he had informed police officials of the inconsistencies. He felt that this was the act that the callers had found so offensive. It was apparent in his mind that he posed a threat to the powers-at-large for his opposition to the accepted versions of the shooting.

". . . It was on Sunday night.... or Sunday afternoon.... the Super Bowl was on about 3:30 or right in there, I got another phone call. Same female. She told me that if I didn't fear for my own life, I ought to fear for the lives of my wife and kids. I said, 'Lady, I don't know what you're talking about. I ain't got no wife and I ain't got no kids.' She started cussing as she says, 'As a matter of fact, you've got a brand new baby girl and her name's Natalie. She's not much more than two months old.' I said, 'Well, you've done your homework. Your know what you're talking about. I don't know if that was my exact words.... I was egging her on now, trying to get her to talk. I said, 'What you going to do now, cuss me out?' So, she says, 'Like I said, if you don't fear for your own life, why don't you think about them? Your wife's name is Rita, your oldest daughter is named Kelly, and your new baby is named Natalie.' There wasn't a handful of officers down there who knew my baby's name. I asked her, 'What are you talking about?' She says, 'Well, how would you like to come home and find their throats cut, and their fingers cut off, and stuck down their throats, and in their ears and in their nose?' I told her, 'Lady, you are sick! If I ever see you here, you're going to die right there in that front yard. I said, 'You're going to get buried right there.'

"So, when I went to work, I told Al Griffin what had happened. Every time it happened, I wrote Willie Hardy a letter about it.

"Then, one night before I.... I was dispatching that night this would have been the twentieth... January, 1980.... I was up there on the front desk and another officer came in there and told me that air was going out of my tires on the truck. So, I went out there. I called.... we had what they called a hot-line to the supervisor's office.... Bill Boggs was

the Sergeant he answered the phone. It was a couple of minutes, maybe thirty seconds or something like that when Mike Lusk came up there and we both went outside and this was about five or ten minutes after eleven. I had been in the building since ten-thirty.

"I later had to have an alibi for all that time, and someone was with me all the time. But air was running out of the tires on all four wheels. There were cuts; two or three or four inches long. I liked the truck. I was asked if I liked it. I liked it. I had just bought it in September or something like that. Anyway, I went back inside and Mike Lusk went with me. I walked over to the telephone and called my wife and asked her to pick me up. It was six-fifteen or something like that. I take it back.... this was still at night. Mike said, 'No, don't call her. Wait until the morning to call her. So, I waited and this was about six-fifteen when I called her. I told her what had happened. About a quarter 'til seven, she called me back and she said, 'Huey,' . . . that's my family name. . . . 'I can't come pick you up. I said, Why not, Baby? She said, 'Well, all four tires on the car are cut.' So, I called back to the office and Mike Lusk answered the phone. I told him, and he said, 'Son of a bitch!' or something like that. They came up.... I don't remember which one.... and they asked me to come back to the office and they sent someone to relieve me. I sat down and talked to them and they asked me, 'Who have you arrested lately?' and all that kind of stuff. I hadn't arrested anybody who was giving me a problem or anything. They wanted to know if they could give.... No.... Danny was that boy's name.... he offered to take me home that morning, to drive me home. I was supposed to meet Doug Collard that morning out there; he was going to take pictures of it (the slashed tires on the car) and everything. And they wanted me to call the Sheriffs Department. So I called the Sheriffs Department when I got.... Yes, I called the Sheriffs Department before or after this happened.... I called them first.... Danny was waiting....

"But, anyway, I got another phone call that morning, from a woman. She told me, 'See? We held up our end of it. The next time we're going to set your truck on fire, or we're going to set your house on fire.' Then she

said, 'Then we're going to go after your family.' I just slammed the phone down.

"It was about that time that the Deputy Sheriff came out there. His name was Mills or Miles or something like that. He took a report on the car and I told him about the phone call and everything. Then I got a phone call from.... I want to say Al Griffin.... but I'm not positive about that. He wanted me to come back up to the office and I told him it'd be a little bit before I could get there because I didn't have a car or anything. But I said I'd call David Thompson. He's another patrol officer. He was hired on at the same time and we-were pretty close to each other.

". . . It was pouring rain.... No, but it was drizzling or something like that. But I called David and David said he'd come and pick me up and take me in there. So, David carried me back up to the office about eight or eight-thirty. I went in and I talked with Chief Findley¹⁰³, Tony Nash, and Al Griffin. They asked me what was going on and what all had happened last night all this and that's when I was told that Doug Collard was going to go out and take pictures of the car and what happened out there. Chief Findley asked me to leave my pickup truck there at the police station and maybe somebody would come back and would burn it or something and they could catch them right there. They were going to fix a security camera up at the top of the building and he said that right now they wanted me to go call the telephone company. 'We've already arranged to have a trap put on your phone and we want you to sign the papers and talk to them so they'll understand what's going on and everything.' I did. While I was gone, they got David in there.... they knew that David and I were close.

"They started asking him all kinds of questions. If I was having any personal problems. If he knew what was going on. Who I was screwing around with, besides my wife. They said, 'I know y'all go out to these parties and play cards and get drunk and to into the back room. Is he screwing someone in there, or what?' I never did stuff like that and never would. He told them that. They also told him, 'Look, this is just between us, David, we're just trying to help Phil the best we can.'

"Of course, David knew what was going on, and so, they told him to keep his mouth shut. I came back I guess I was gone 30 or 40 minutes.... and they had him in there most of that time grilling him. He

103 Megason refers to Assistant Chief Kenneth Findley as "Chief Findley."

told me after we went to lunch.... we went to lunch with him and his wife.... and he told me what they had said. They had told him to keep his mouth shut and not to let me know what had been said. So, when I came back from the telephone company, they got me in there. I knew what they were doing. They went through the same stuff with me. They wanted to make sure the same story was the same story, y'know? Like I said, 'David and I went to lunch, piddled around, and David dropped me by the house.... No, I take that back. . . ., We went to the police department first because the Chief¹⁰⁴ 104..... Well, we went through the same thing.... They called Henry Ford in there to call up one of the secretaries up there in the secretary pool. I can't remember her name. But they called her on the phone and had it on a speaker where I could listen to it to see if it was the same girl. They asked me if it was and I said, 'No, it wasn't her.' And they said, 'Well, you know who the girl is. I said, 'Yeah, that I did.' 'Well, is the name such-in-such,' and I said, 'Yeah, she's one of the secretaries on midnight shift' 'Well, how do you know her?' And I said, 'Well, y'know, when I'm up there dispatching, she's up there typing reports. Of course, I'm going to know who she is.' 'Well, have you ever gone out with her? Have you ever screwed her?' The answer to all that was, no. He said it again, 'Have you ever screwed her?'

"Anyway, David carried me home and the wife told me.... Well, before I left, Chief Findley said, 'Phil, I don't want you discussing this with anybody. I don't want you to discuss this even with David. I don't care even if he is a close friend of yours. We've got a problem here. You've got a problem. And we've got to take care of it. I don't care who asks you or what, you just don't say anything about it.

"So, David carried me home, and of course, I told David what Findley had said. David warned me to be careful. When I got home, the wife told me that Chief Findley had called and said that he wanted me to come and see him and Hunter Brush at Brush's office.

"I asked her when he said all this and she said that he told her that I had gone to the telephone company and that I was going to go to lunch and it was right around lunchtime when he had called. So, I said, 'I ain't going back up there. By now, I had been up since six o'clock.

"My wife had called my mom already and told her what had hap-

104 Again referring to Kenneth Findley.

pened. My folks lived over in Troup.... actually, Mixon.¹⁰⁵ I had gone to bed and I heard some folks talking and I woke up and my Mom was there in the bedroom and my wife was there and they were getting some clothes together and packing. I said, 'What's going on, Baby?' She said, 'Well, we're going on down to the farm with your Mom.' So, I said, 'Well, let's discuss this for a minute.' Mom said, 'It's the best thing to do. It's not safe to be here with all this stuff going on.'

"Well, I was still groggy. I had been asleep for about an hour.... an hour-and-a-half. ... something like that. I sat there on the side of the bed and we talked about it for a little bit. She got the girl's clothes together and the two girls and they left. Before they left, Rita told me that Charles Chandler had called. He's in Vice. So, she told me that Charles had called and I asked her what he wanted and she said he told her it was important that he wanted to talk to me about everything that had happened. I said, 'Chief Findley told me I wasn't supposed to talk to anybody about it.' This had happened just before my Mom had gotten there, because she had come in and woke me up to tell me. This was between five and five-fifteen. Well, he called back. She says, 'It's Charles on the phone and he wants to talk with you.' That's right.... it wasn't my Mom who woke me up.... it was the phone call that woke me up. So, I answered the phone and Charles Chandler was on it. He said, 'Phil, I understand you have a pretty big problem. We need to sit down and talk about it. We need to meet out at your house or something like that.' I said, 'Well, the Chief told me not to talk about it.' He said, 'How do you think I found out about it?' I said, 'I don't have any idea.' He said, 'Well, Chief Findley told me about it.' I said, 'Well, he hasn't told me that I'm supposed to go and talk to you about it.' And he said, 'The Chief. ... if you want to call him, go call him. He told me to meet you at the airport.' And I said, 'At the airport?' I said, 'How am I going to get out there?' I said my truck's at the P.D. with four flat tires on it and my wife's car is out here with four flat tires on it. How am I supposed to get out there?' I don't remember if he suggested that I take the motorcycle or what, but finally I said that I've got my motorcycle out here in the garage. So, I got dressed.... put on my guns took two of them this time and got on my motorcycle. I

105 Troup and Mixon are small communities neighboring Tyler in Smith County.

wouldn't trust Charles Chandler any farther than I could throw him. I knew enough gossip.... P.D. gossip.... about him to know that he's a snake. That's on the record, off the record, I don't care.¹⁰⁶ 106 So, I met him out there at the airport, see? I live near there. I guess it's about two miles by roadway. It's not very far. When I got there, Charles was in the car and I don't remember Jim's last name.... He worked at Athens P.D. and got shot... Jim Glover! He was there.... and Randy Freeman. He's in Vice now. I got in the car on the back left hand side and Randy was the passenger on the back right hand side. Charles was the passenger in the front of the car, and Jim was driving. Jim and Randy might have been swapped, I don't remember. Charles asked a bunch of questions and he said just start it over again and tell me about the tires getting cut and what-have-you, and the threats and bring us up to date about what's going on. I said, 'Well, Sergeant, no disrespect to you, but just like I told you on the phone, the Chief told me not to talk to anyone about this and I still haven't heard from him telling me to talk to anyone about it and I ain't gonna' talk about it' He said, 'Well, what about your house tonight?' I said, 'I'm going to be there until I go to work.' He said, 'Well, we're supposed to set up security on it.' I said, 'fine. You want me to tell you how to get there?' He says, 'There's no reason for you to get hostile.' I said, 'The hell there ain't! I've got a truck up there with tires cut on it, wife and kids' lives have been threatened, and a car sitting there with the tires cut on it, and you wouldn't be upset?'

"My wife was in Troup by this time, but I didn't tell him that. He said, 'Well, Phil, we're just trying to.... you need to calm down,' or something like that. 'We don't want to see you get hurt. And whoever's doing it, we want to catch them.' So, I said, 'I don't guess you'd called or said something about it unless the Chief had said to do it. Because you handle everything that's internal down there, and everyone knows that.' He said, 'Now you see it the way it is,' or something like that. So, I told him what was going on. He said, 'Well, it's our idea that one officer will stay outside

106 In all interviews conducted in compiling this work, subjects were given the right to make comments with the stipulation that they would be "off the record", that is, they would not be included as quotes within this book.

the house and we'd like for another to stay inside the house.' I said, 'That's fine.' He said, 'Your wife isn't going to mind that?' I said, 'My wife ain't there.' 'Where's your wife at?' I said, 'I sent her off.' 'Where'd you send her?' I said, 'If I don't tell anybody where I sent her, she's gonna' be alright.' He said, 'Alright, alright. . . .' No.... he didn't.... he said, 'Why did you send her off?' I said, 'If your wife had been threatened or the life of your kids had been threatened, wouldn't you send them off somewhere?' He said, 'Yeah, I guess I would. He said, 'We're gonna' put an officer outside your home and one inside.'

". . . He said, 'At nine-fifteen, I want you to be watching. We're going to drop Jim out and he's going to stay at your house.' I said that was fine. 'I'll fold out the couch for him.' We have a folding couch in the family room and I was going to fold it out for him. He said, 'Well, you need to be watching for him because we're going to come by in the truck. We don't want to stop or anything, he's just going to jump out.' I said; 'Alright.' So, I got back on the motorcycle and he said, 'We're going to follow you back to the house to find out exactly where it is. We know pretty well where it is, but not exactly.' At the time, that didn't dawn on me. Him telling me that and then saying he couldn't find where it was. I'd forgotten that Lieutenant Collard had been out that morning taking pictures. Surely they would have known where the house was!

"I went on to the house and I pulled up in the driveway. I opened the garage door and put my motorcycle back inside. I stood there at the garage door, it had window panes in it, and watched them to see where they went. They went up the hill there.... the road went up the hill and made a turn and there were no houses up there except for right there on the corner. Right there in that turn, he made a U-turn. They moved back down the road there and pulled off the side by a ditch and sat. So, I watched them for a few minutes and they just sat there. I went on back inside the house and went into the bedroom and I took a shower.... No.... I didn't take a shower, I just laid back down. I'd been laying there about ten minutes and the phone rang. It was Bill Bogg's wife. She said, 'Phil, we just found out what was going on and we just wanted to know if you wanted to let your wife come on down here and stay.' They lived between Flint and Gresham. I think her name's Patty, I'm not sure. I thanked her for the offer and told her the wife and kids were gone and I said

they're in a safe place and they'll be alright, but I appreciate the offer. This was about a quarter-to-seven. I said, 'I'm not going to get any sleep, so I'll just take a shower and lay my clothes out... 'the clothes I was going to wear to work. I took a shower and started shaving and I decided I'd go fix something to eat. Well, there wasn't any milk. So, I got on the motorcycle and went to town. When I went outside to get the motorcycle and lock the garage, the cat ran back in through the garage door and back into the house. I went back into the house to get the cat and I threw the cat back out in the front yard. And y'know, I had to account for all my time right in there, and when I was leaving, 'Happy Days' was coming on. This was Tuesday night, January 21st. ... maybe the twenty-second.... but it was on a Tuesday night....

"... I went to MacDonald's on South Broadway. I ate a Big Mac and some French Fries, and a medium sized Coke. When I got through, I went out and got on my motorcycle, and when I cranked it up, I checked to see how much gas I had. I didn't have much and I looked at my watch to see if I had enough time before nine-fifteen to get it. It was already dusk. It was seven-thirty-five. I went up to the service station at Broadway and Amherst. A Phillips or something like that. I went in there and got three dollars and thirty-some cents worth of gas and I had given the lady a five dollar bill. She gave me change. The fella' paying in front of me was driving a little MGB with the top down and they were making a comment toward him that it was too cold out there to have the top down and I was standing there with a motorcycle helmet. It was under my arm and they made a comment about that. Back then, I had all my hair cut off, real short. I started back toward the house and I got to the Loop and the spur that goes right behind Kelly. About a mile, a mile-and-a-half down the road, a big dip rises and I noticed that when I had gotten down in the bottom that there was a patrol unit up there of some kind. It was a city unit That pea-green.... whadya' call it? Yellow-looking. I pulled up there and they were there on the shoulder. I pulled up along side of it and it was... I can't remember the McClain boy.... it wasn't Danny.... it was the other McClain boy.... he was a Sergeant on the evening shift then, and Lieutenant Ronny Scott. At first, I thought it was a patrol officer who had chased someone out there to give them a ticket or something. I said, 'Hey, Man, what's happening?' Then I saw it was a Sergeant, and to me, that would be

a disrespectful way to speak to a Sergeant, so I caught myself and said, 'Sergeant McClain,' or something like that. I said, 'What are y'all doing out here?' I can't remember if it was the McClain boy who asked me or Lieutenant Scott.... they asked me where I had been. I said I'd been in town eating dinner. They said, 'Well, did you know your house is on fire?' I sure didn't! They said, 'Well, we don't know where your house is, can we follow you?' I said, 'If you can keep up with me!' A panic went into me then. I forgot that my family wasn't in the house. When I got there, I couldn't get to the house.... I had to park the motorcycle across the street in a driveway. Fire units and patrol units were everywhere. I started running back across the street and I threw up. The house was still burning then and I wouldn't call it a panic.... it was a controlled panic because there were a bunch of people fighting the fire and stuff. I then saw my Dad and my wife. They had come up from Troup. Someone at the church had called my Mom and Dad's house and told them about it. I think the man who lived across the street where I parked was also a preacher and I think he had called the church. That's how Dad found out about it. Of course, they didn't know if I was in the house or not.... didn't know where I was.... anyway, I went over and talked with him and David Thompson showed up at that time and the next person I talked to was Chief Findley. And Tony Nash. Chief Findley wanted me to go in and stand by the telephone until Weaver.... I think it's Glenn who works for the Fire Department.... and he wanted me to wait until he called so I could tell him how to get to the house. I stood there at the phone in all the smoke and what-have-you, and just stood there watching people run in and out. Chief Findley was in and out a bunch. Doug Collard was out there. He was in and out a bunch. And Dad had come in and was walking around seeing how things were... At the time, he didn't tell me what he'd seen, it wasn't until the next day. I just stood there and Weaver called and I told him how to come to the house. Doug Collard asked me for a box or something to cover up a footprint on the outside of the house. Outside of our bedroom. So, the only box I could see was a box that was laying on my daughter's bed. It was a little box about 18 inches long, a foot deep, ten inches wide. Had all our tax records in it. My wife's business records. Her consultant work as a dietitian. Charge account stuff and things like that. I dumped it on the bed and gave Doug Collard the

box. But it wasn't normally kept there on the bed. It was kept in my daughter's closet. That was the one place that if someone broke into the house, they wouldn't find something like that. Insurance papers and stuff like that was in it. So, I gave him the box and I had gone back into the bedroom to check on some coins I had. I'm not a real big coin collector, but I had some coins I had collected. I had twenty silver dollars and I went to see if they were there, and they were gone. So, I went over to my wife's dresser to see if her jewelry was there. It was all still there. But under her jewelry box as a flat box where I kept \$200 in cash. I'd gotten paid Wednesday or Thursday or something like that, so I'd had the cash around the house. I checked and it was gone. I went back to tell Charlie Shine¹⁰⁷ the stuff was missing. Because, him being Fire Marshall, he was in charge of the fire scene. He started asking me a few questions and he said, come on around here, I want to ask you something about out here in the garage. I went around there with him and they had the fire out by then. It was smoking and steaming and things, and they had dug around there and he said, 'This looks like a thermos. Do you own a thermos?' I said, Yessir. He said, 'Well, what color is it?' I said, 'It's a kind of scotch plaid. Red and black and beige plaid. It came out of a child's lunch box.' He said, 'Do you know where it is?' I said, 'Sure.' There was a closet.... well, it's not a closet.... it's a cupboard, like in the kitchen cabinets. There in the utility room, and I thought it was in there, but it wasn't. I couldn't find it. He said, 'Well, is this your thermos?' It was a thermos about as large as a piece of legal sized paper in length and and I told him it wasn't mine. It was bigger than the one we had. Ours was about 8 or 10 inches in length. He gathered it up and put it in a bag or something. I went back there to ask him what we were going to do about the coins and he changed the subject. So, I saw David about that time, and he called me off to the side. He said, 'I know it's hard for you to do, but you need to settle down a little bit. Keep your mouth shut and what have you. Everyone's listening to what you're saying.' And I said, 'Well, I've been ripped off and I want everyone to know it. He said, 'Well, there's a lot more going on here than just being ripped off.' I said that I knew that. He said, 'Well, I just want you to know that I'm watching your back. You know what type of people

107 Smith County Fire Marshall.

are out here. I want you to know I'm going to watch your wife and I'm going to watch you, too. I have my gun on me.' I told him that I had two of them on me and he reminded me to just remember where they're at.

"I went back inside the house and got to walking around and checking some more things and I walked up on Findley back there in my bedroom. I had about a 14-page letter to a boy who lives in Virginia. He's in the military. He was stationed at Virginia Military Institute. I had written the letter and it had been almost a year. He had been in Germany and you couldn't get any letters to him. He was classified and they wouldn't let him accept mail and he couldn't mail any out. So, I had been writing the letter for a long time telling him what type of work I was doing and how much I was enjoying it, but that I had put in my application with the state, and what I had done was filled it out (the application to the state) but I hadn't turned it in yet. He's an avid hunter and I was telling him what kind of guns I had. Well, the letter was gone. It wasn't in there. As soon as I walked into the bedroom, Finley left the bedroom.

"I don't know if Finley had the letter or not. I just know that when I started taking inventory, it was also gone. I didn't discover the letter gone until the next day. David I want to say that Al Griffin was out there.... he asked me if I was coming into work and I said that, yeah, that I had a uniform down in my locker there. David left his truck there for me. He went into work with someone else. I drove his truck up there and I went in and told the Lieutenant that I didn't feel like working that night and he said that he understood it. He asked where I was going to be and I told him I was going to stay with my sister in town.

" . . Estimates on the fire were about forty percent damage to the house. Including garage and utility room, and it totally ruined the whole roof. Heavy smoke and water damage to the rest of the house. It didn't burn up any furniture or anything like that.... The point of origin of the fire was placed just inside the garage door. The garage door had been locked.

"My neighbor on the west side of the house.... his name was Mike Staples.... he was the first person to get to the house and try to put the fire out. He said he first knew of the fire when he heard an explosion. He didn't know what it was, so he went outside and saw the house on fire. Then there was another explosion after that, and two or three minor

explosions. I had some ammunition out there. Shotgun shells and pistol cartridges and what have you, and that was probably the minor explosions he heard. I didn't have anything. I had a gasoline can setting on top of the lawnmower. I had a riding mower. It set just about in the middle of the garage. I think it was a two and a half or a five gallon can up in the seat where the cat couldn't get to it. I thought it was safe there. The gas can, we found out, never did show any signs of exploding. You could see where it had collapsed, but it didn't explode. It buckled a little bit....

". . . Charlie Shine had a sniffer to check for gas leaks.... He had it out and he was checking for the gas lines in the attic and he told me that night that in his opinion the gas line above the utility room had ruptured. Probably a backfire from the hot water heater there. But he had already pointed out that thermos jug. I knew what it meant. It was a stainless steel thermos or something like that. Again, he told me it was the gas line that had ruptured. I believed him at the time. There were two other houses out there in the same addition that had the same problem. They had gas lines that had broken. So, the next day, I came out.... I was supposed to be at the P.D. at eight o'clock. At nine o'clock.... I'm sorry.... and I got there at eight. I can't remember who I saw first, but there were sitting down in the office in the back of the P.D. off the briefing room and then Lt. Griffin came back and he asked me to come back to Chief Finley's office and we sat there and talked about where I had been and who I'd talked to that night and I went through the same thing about Charles Chandler and everything. I said I had argued with him about talking to him because he had told me not to, and he told me that he had told him to set up security and everything. Chief Finley had... No.... at this time we were just talking about what had happened the night before and.... they sent me back to a little room.... they call it the patrol room and it sits just off the briefing room.... and they said for me to just sit there. Finley had told me to go ahead and call my insurance company about getting the truck fixed and what-have-you. The tires and all that. Yeah, that's what he told me to do. So, I called the people I'd bought the tires from.... well, I called the wrecker company about coming to pick the truck up.... because they'd have to put it on dollies and what-have-you. I called the Bill Day Tire Company.... they put the tires on. I told them I wanted to put the same tires back on and then I called the insurance com-

pany. I told them what had happened and everything and they said that everything I had done was alright. They asked me how many miles I had on the tires and there was about four or five thousand miles. He said they'd have to adjust that and I'd have to pay part of it and I said that I knew that. So, Bill came back and he said, 'Let's go eat some breakfast. This was Bill Boggs. Sergeant Bill Boggs. And I said that I really wanted to go on out to the house and he said, 'Well, let's go drink some coffee or something and we'll talk about what's happening.' And I said, 'Bill, I really don't want to talk about it. I just want to go on out to the house and see what's going on. I want to see how the house is and it's getting daylight.' And he said, 'The Chief says to take you to breakfast' So, Bill and I went to IHOP¹⁰⁸ and we sat there about 30 or 40 minutes and we left and went back to the police department. I talked to Chief Finley again, Captain Nash and Al Griffin. They finally told Bill he could take me out to the house now. We went out the back door to get in Bill's car and the three of them were all going out the side door. The Chiefs door. The private entrance.

"Bill carried me to the house. I got out there and there was a man out in the garage digging through the trash and stuff from the fire. The debris. They were putting stuff in sacks.... No, they weren't sacks.... they were one-gallon paint cans. No labels on them or anything. Just silver-looking cans. Charlie took me away from there. He took me back to the van and he said, 'I need to talk to you and get your permission to remove some items from there.' He said to determine the origin of the fire and what really happened.... He had a list, a paragraph about three inches long. He read me my rights and asked me if I understood them. I said, 'Well, Charlie, I'm a police officer. Of course I understand the Miranda rights. But,' I asked, 'why are you reading my rights to me?' He said it was normal procedure, that anytime they removed property from someone, their rights were read to them. So, I said, 'What kind of property are you removing?' He had a list there with, I think, five or six items on it. The thermos was one of them, and then there was some sheet rock, from in between the utility room and the garage. I don't remember all that was on

108 Tyler's International House of Pancakes, IHOP, that was ironically to suffer extensive fire damage five years later. The work of an arsonist.

it. Then there was a space about three or three and a half inches between where I was to sign and where the list ended.

"Not knowing then about taking statements from prisoners and what have-you, I didn't think anything about the space. I signed the deal and gave permission to remove. I dated it and put the time down there that I had signed it. I realized now that they probably went back and added things to it. I should have drawn a line in there and initialed it. I've never seen the list since that day, but I'd hazard to guess that several other things have been added to it. But anyway, I went back up to the house and looked around and I saw it was a mess and I went to check about that letter and stuff and I checked the dresser and I checked again for the money to make sure it wasn't ... that I didn't just forget that it was under the jewelry box. It set inside a glass tray, also. I checked underneath it and it wasn't there, so I knew it was gone. I checked again for the silver dollars. They were kept on top of the dresser in a little shoe box that my oldest daughter's tennis shoes had come in. They were all wrapped singly in tissue paper and what-have-you, and they were gone and I reminded Charlie of it again. He said to go get the Sheriff's Department to look into that part of it. I didn't know what he meant by that then. Bill told me when he got back to the P.D. that the Chief wanted to talk to me again when we got through out there. We left.... and Charlie Shine was still there and so was the other fella.

"..... Chief Finley started questioning me again about where I was that night, what time I went to the house, where I'd been, who I saw, and all that. I told him. I could still describe the fella who worked there at MacDonalds. The guy who waited on me, because he made a mistake on the register and had to go get his supervisor to clear it. Greg Johnson checked it all out on Friday when he finally got around to sending someone out to check the story out.

"....Chief Finley got on to me. After that I went back to the P.D. after lunch time. He got on to me for not being there at eight o'clock. He said, 'You still work here and I expect you to be in uniform.' I said, 'Well,

Chief, I've got one uniform and it's down there in my locker and it's dirty. My other ones are sooted up. He said, 'We'll get you some but you get that uniform cleaned and you be here on time. But right now, you're assigned to day shift and I want you here at eight o'clock in the morning

bright and early. And until you get your uniforms cleaned, I expect you to be here in coat-and-tie.'

" . . . I got ticked off. That's when I went out to the house and put plywood over the doors and I realized that something was a little kinky or something. I realized that something was going on. I wrote 'No Trespassing' on them. I wrote it on the doors and things because I didn't want anyone else back out there.

" . . . Al Griffin called me Thursday morning and said the Chief wants me to come in. As soon as I could. This was in the morning, about 8 or eight-thirty. It was one o'clock before I got there one-fifteen. But before I went in, I got me a tape recorder, a little pocket cassette recorder. I had put on a coat and tie and when I went in, he asked me a question I don't remember what the question was.... and then he said, 'Phil, we have to read you your rights before we ask you any more questions.' And I said, 'What rights?' He said, 'Your Miranda rights, you know what rights!' I said, 'Yessir, wait just a minute.' I took out the tape recorder from my coat, turned it on and placed it on the table. This was in Chief Finley's office. Nash and Lt. Griffin were there. He said, 'What's that?' I told him it was a tape recorder. He said, 'Well, what's that for?' I said, 'If you're going to read me my rights, I don't have an attorney present. I don't mind talking to you, but this is the second time I've had my rights read to me now, and I want them recorded. He said, 'Well, there ain't no need for a recorder.' I said, 'Alright, I'll turn my recorder off, and you turn yours off.' He said, 'I don't have a recorder on.' I said, 'Chief, don't lie to me.' I said, 'You've got a recorder on. It's in your top right hand drawer. I know it's there.' 'Well, what have you been doing in my office? There ain't no way you could know it's there unless you've been in here.' I said, 'I've never been in your office except for the other day when you called me in.' He said, 'I'll turn it off.' So, he reached over and turned it off. Well, he's got a foot switch. It's under his desk. I said, 'You've probably turned it back on now.' He said, 'What do you mean?' I said, 'I know you have a foot switch.' Well, now he's pretty frustrated with me and he told me to go back and sit down in the hall. Near the front lobby. They had called in a couple more officers who worked on midnights. They were sitting in the front lobby with me. The conversation was small talk, y'know? What are we doing here and all that kinda' stuff. I said, 'I imagine

it's about the fire.' So, they called me back in there and read me my rights again. I don't know if they had the recorder on this time. I just listened to them and they said, 'Who's your attorney?' I said, 'My attorney is Leonard Davis.' They said, 'Isn't he a member of the Potter, Guinn and Minton law firm?' I said, 'Yessir.' 'Isn't he also an associate of Kelly Ireland?' 'Yessir.' He said, 'What information have you passed on to Kelly?' I said that I hadn't given Kelly any information. I hadn't even talked to him. 'What information have you passed on to Leonard Davis?' I said, 'That's between me and my attorney.' He said, 'If you've been passing information from the police department, you're in violation of police department policy number so-and-so, which was a joke. At that time, there was two big books of police department policies. He said, 'I want to know what it is that you passed on to him.' I said, 'Well, I haven't told him anything about your personal problem of being two or three months behind in child support.' He said, 'I'm not talking about me! I'm talking about you! And the police department!' I said, 'You're part of the police department' He said, 'Let's don't talk about that. Let's talk about what we were talking about! What did you pass on?' I said, 'I didn't say anything about officer so-and-so stopping you in the hall and threatening to whoop you. I was playing games with him. I was being disrespectful then, and I fully intended to be disrespectful. I wasn't intending to answer their questions the way they wanted them answered. Then he got serious and I could tell he was and he started asking questions about it all. I said I told my attorney about three different conversations that I had with Kim Ramsey and Tim McGuire. 'What about those conversations?' I told him that in three different conversations, none of the stories matched about the shooting and I further advised him that I told my Sergeant on day shift that someone needed to tell them.... that being y'all.... you, Chief. ... that their stories didn't match and that before they testified in court someone needed to talk to them. He said, 'You told him that?' I said, 'Yessir.' I sure did. 'Why?' I said, 'So that if I got hurt or something like that, they'd know where to go.' I had not told Leonard at that time. Leonard lived across the street from me when I lived in town. He was my Mom and Dad's attorney and we were very good friends and I thought it was the next best thing to tell him. So that if something did happen, they'd have something to worry about first before they did it. But anyway, when I left there, I went back

out to the lobby and they called in one of the other officers. I don't know what they asked him.

"One of the officers had married Willie Hardy's niece. So, he's a nephew by marriage. His name is McCartney. When I was working security up there at the hospital, he was one of the officers who relieved me up there. Anyway, they sent him back out and they called me back in. They asked me again, where I was that night, who I was having trouble with, whatever.... Another thing I left out was that back during the week of January 16 to the 18th, the night before when I was on my shift, somebody had written 'Snitch', 'Mother Fucker' and Son of a Bitch' on my locker. They were asking questions about that, also. Questions about that came up each time they called me in. So, when they got through with me, they'd call in another officer. They kept trading us out in interviews until about 4 to 4:15 in the afternoon. Then the Lieutenant finally came out and said, 'Be here at 8 in the morning.' That's when I was assigned to day shift. So, I went home that evening and got hold of Leonard Davis. I went down there and told him just about everything. He recorded it. I had become somewhat concerned for my personal safety, and he cautioned me to be especially careful while I was down there. Not to give them anything. He said, 'If you want to play games with them, I can't tell you not to. But I wouldn't advise it.' I said, 'All I can tell is what I know. What I know to be the accurate truth.' He agreed.

"I went in at eight the next morning. I was in a suit and they already had two officers who were on midnights sitting there. He said, 'I told you to be here at seven o'clock.' I said, 'No, sir. You told me to be here at eight o'clock!' He said, 'Well, I told you you'd be assigned to day shift. Day shift begins at seven o'clock, so you be here at seven o'clock!' I said, 'Yessir.' He said, 'As a matter of fact, you be in uniform in the morning.' So, all morning I was traded in and out with two other officers. That afternoon, I was traded in and out with two more officers. I know that Etheridge was one of them, and David Thompson was one of them. I know that.... but I can't remember Danny's last name.... but he was one of the officers. Gorie Loveday was one of the officers. That went on all day. So, I showed up the next morning at seven and he told me to report back to midnights. To take my regular shift. So, I left and I came back to midnights to take my regular shift. That night, no one would speak to me in the briefing room. Thompson would, but we were pretty close. Nobody

else would. No jokes. It was a pretty lonely feeling. I was assigned to the desk in the dispatch office.

"I kept pretty close touch with Leonard Davis about what was going on. We got into the next week and after being up all night, Finley would have me back in his office and two more officers would have to stay over. We were traded back and forth, traded in and out.... and not only were they harassing me now, but they were doing it to the other men. It was getting pretty tiresome. To me, I was imposing on them. My problems had now become theirs and I was causing problems to them. I couldn't do that. That's why I quit.

"I think it was the following Friday when I turned in my letter of I resignation. I had written it at Leonard Davis' office and his secretary had typed it and Leonard went with me to Chief Hardy's office, which was the first contact I had had with him. It was the week after the fire. I gave him the letter and he read it and passed it to Finley and he said, 'I want to tell you one thing. If you tell anybody about the contents of this letter, I'm going to sue you.'

"Leonard had told me that I had to control myself and be polite, so everything was 'yessir' and 'no, sir' up to that point. He knew he'd struck a nerve when he said that. I said, 'You mean, my house has been burned and all this stuff and now you're going to tell me that. . . .' It was then that Leonard said, 'Now, wait a minute. Don't threaten him, Willie. The contents of that letter are truthful, and if he wants to get it in the newspaper, I'll encourage him to get it in the newspaper.'

"The letter made reference to my family being threatened.... my life being threatened and that there was a group of persons there who didn't want me to be there because of things I knew and didn't know and what-all. That I held them responsible for the situation. So, I quit.

"I think it must have been on a Thursday, because on Friday, Charlie Shine came into Leonard's office while I was there. He was with his assistant. He handed me a subpoena to the Smith County Grand Jury for an open investigation.

"Leonard Davis' recommendation to me was to state that I understood when they read me my rights and then to state that I had nothing further to say. If you don't want to do that, he said, then tell them everything.... and I mean, everything! So, I spent two to two-and-one-

half hours in there.

"... The foreman of the jury, I don't remember his name, said that I was so far in debt that I burned the house down to collect the insurance. The wife and I bought the house in May of 1979 and this would have been nine months later. We were in arrears on the house payment. A full month and almost a second month. The wife had had the baby and she was on maternity leave. She hadn't drawn a check for a month or a month-and-a-half, but I didn't think we were in such a bind. I had already called the bank and told them we were going to be late. I said I would pay for this month on that Friday, and let's see.... I was one month behind on my truck payment. My car payments were up to date because they came straight out of my check through the credit union. I also had about two hundred dollars in cash at the credit union. Savings. That was all I was behind on.

"I was asked how I could afford an attorney like Leonard Davis and be two months behind on my house payment.... three months behind on my truck payment.... and I tried to tell the foreman of the grand jury that

I wasn't three months behind on the truck, only a month behind. He said, 'But at the time you were two months behind.' I told him, No. It was a month and almost another month, but it was all turning into an argument, so I dropped it.

"He said, 'I'm going to give you a piece of paper and you write down everything that you make payments on.' He said, 'Now, tell me how you do that on a cop's salary?' I said, 'Well, my wife works too. She makes almost \$2,000 a month.' 'Yeah, but she's not working right now.' I said, 'Yeah, but she goes back to work next week. As soon as she gets her first check, you can see that we'll have everything back up to date.' He said, 'I can't see that at all. All I can see right now is that you're behind.'

"So, on March 10, 1980, I was indicted for arson with intent.... to collect the insurance. I laugh about it now, but that's a joke. The house was mortgaged. East Texas Savings and Loan.... they would have gotten the money, not me. But with the house not being totally destroyed, or the contents, there wasn't going to be that much on the insurance. But I couldn't put all of that together then. I was too rattled about the house, the threats and everything.

"Charlie Shine had asked me, 'How do you feel about taking a

polygraph?' I said that I would. He said, 'How do you feel about being hypnotized?' I said, 'No, sir!' He said, 'Why not?' I told him because I don't think anyone has the right to mess with my mind. He argued with me so much that I finally said that I wouldn't do either one. Leonard surrendered me and I was booked into jail.

"... I was so messed up that I couldn't work. I'd just sit around all day. My wife told me that I had all kinds of nightmares. Finally, I found a passage in the Bible Psalms 37, I think saying that they'd come down like wheat, and I believed it. It turned my thinking around.

"At last, they said that if I'd take a polygraph and passed it, they'd drop the charges. So, I took the polygraph and passed it. I was scared to death. It was quite an ordeal, but I passed it. I had been arraigned three times before Judge Phillips and entered pleas of not guilty. Then, I took another polygraph and passed it for the District Attorney.

"A long time went by.... far beyond the one hundred and eighty days for a speedy trial. I still hadn't heard anything from the District Attorney. By this time, we were living in an apartment in Tyler and sleeping on the floor and eating out of paper plates. Finally, Phillips dropped the charges. It was finally over.

"Later, my neighbor came to me. She was a student at the University of Texas at Tyler in Criminology and she had seen a suspicious car around my house the night of the fire. She wrote down the license number and later drove to the police department where she saw the same car parked. "That's it.... the whole story. What else can I say?"

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Phil Megason was never to return to the Tyler Police Department. He maintains, to this day, that his job with the department was the most rewarding and enjoyable experience he has ever had throughout his employment history. He would love to return if some of the old regime were ever weeded out.

Megason was to pass his polygraph without the slightest indication that he had been deceptive. It was determined that he had told the truth in all details of his narration. He had told the truth about the various tales told by Ramsey and McGuire, and perhaps the advice offered by his

mother would have been the route toward being more prudent. "Learn to recognize that everything isn't black-and-white. There's a lot of grey in this world that you'll have to live with." Megason, in his commitment to the truth could not compromise with such a philosophy, and he paid dearly for it.

Not long after his long ordeal had ended, his parent's home burned to the ground.

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The horror story of Phil Megason's encounters with the Tyler Police Department was not an isolated instance. Officer Joe Dillman fell into disfavor during this period. His ordeal emphasizes the retaliation that had become typical of the department during that time. The event was later to be recounted by Mike Lusk:

" . . . There's a detective who's a good friend of mine who's still there, Joe Dillman. There was one day he kinda' argued with Kenneth Finley about the penalties of some Class C misdemeanors. Joe finally showed him the book where he was right and Finley was wrong. Shortly after that, they had Dillman on the carpet for misappropriation of funds from the softball team or something like that. That he had.... it was through the Police Association.... taken some funds. Joe had no more stolen money than I had taken that nineteen hundred and forty dollars.¹⁰⁹

" . . .He got an indefinite suspension which is nothing more than a firing. That is, through Civil Service. But he fought it and fought it and hired an attorney and went and stood by his convictions all the way down the line and the Civil Service over-turned his conviction and he was reinstated with back pay and he went back to detectives and since then has made 'Detective of the Year'. Let me tell you, Joe's an honest, good police officer."

Later, in contacting Dillman, he was to listen patiently to my praise of his courage in opposing the powers of the police department and offered a

109 Lusk, after he had fallen into disfavor with Hardy and department officials, was accused of stealing \$1,940 from the vice division vault. He, too, passed polygraphs and was found innocent of the charge.

timid, "thank you." He would offer no more, however, for after all, he is still wearing the Tyler blue.

The unrest within the department was exemplified by the resignation of Lieutenant Ronnie Scott, the highest-ranking officer to leave the department during these days of turmoil. As a parting gesture, Scott turned over to the Tyler Courier-Times the photos he had taken of the drugs gathered from the mobile home after the shooting of Creig Matthews. The newspaper printed the photos and revealed that the briefcase containing the drugs was never again found within the department. They had disappeared, just as Scott had prophesied.

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It was now apparent that the department was factionalized. The good guys and the bad guys were falling into ranks with neither camp being able to truly define which group wore the white hats. One clear distinction was found in the allegation that the good guys were the ones receiving disciplinary slips and the bad guys were the ones receiving promotions. Another distinction was that the good guys were the ones wanting to reveal their knowledge of the inner-workings of the department to some authority. The bag guys smiled smugly and walked with the confidence of knowing they were in the comforting shade of Willie Hardy's protective wing. '

"It was Nazi Germany all over again," related one former officer. "The command had the ability to sway those following them to do almost anything. It was done with the belief that in doing it, they were simply being loyal. How that could ever happen to anyone, I don't know. But I saw it happen, and it took place right within the Tyler Police Department." Texas Ranger Stuart Dowell was later to characterize the police department as it was in those days by drawing the analogy: "Can you imagine what I could do to you if my superiors told me to go out and get you and not to be concerned with the law? I could have you crucified and the whole system would back me up in doing it!"

Dennis Price, the efficient private investigator, was later to give his own assessment of the department. "A psychiatrist could have a field day with a study of what was happening back then. It was almost as if the force

had been brainwashed. At least, a portion of the force. It was a scary thing to see, and I didn't like it."

Unfortunately, for the powers of the department, they didn't like what was happening within the ranks either. The whispers within the locker room were now seeds of rebellion, and one's role was defined by which philosophy he had accepted. For those who believed in right and justice, it was a very bad time, indeed.

"What you did last night was the stupidest thing I've ever seen. But that's alright. You and Kim are going to swear that Bora shot you. We are going to get that son of a bitch one way or the other!"

A statement credited to Assistant Chief Kenneth Finley, appearing in the Second Amended Application for Writ of Habeas Corpus, the State of Texas vs. Kenneth Andrew Bora.

WITH JUSTICE FOR ALL

It was Monday, May 13, 1980. A group of anxious spectators stood outside of Judge Carroll's courtroom waiting for the bailiff to unlock the doors. Wooden benches stood against the marbled walls and Hunter Brush and Assistant District Attorney, Chris Harrison whispered in anticipation of all that would take place on that day. They had established their game plan and now were making certain that they were in agreement on the sequence of witnesses and events that they believed would solidify a case against the notorious Kenneth Bora. Before them, the doors of the courtroom elevator opened and shut with an annoying regularity and people, meaning to be cordial, interrupted them with words of encouragement, the 'go-get-em' attitude that was so prevalent now among the courtroom regulars. Brush would nod his appreciation as would any politician, but thought the interruptions were a nuisance and secretly wished that people would give him the courtesy of leaving him alone during this critical time of preparation.

Near the stairway, Bora conferred softly with Tessmer and Holcomb. His wife of five years, Barbara, stood silently at his side, occasionally reaching out to grasp her husband's hand in a gesture of some final security. She did not like the tenor of the conversation. Her husband was speaking in terms of 99 years in a possible sentence. There was talk of pro-

bation and the fact that Bora had never been convicted of a felony, thus making him eligible for a probated sentence. There was little talk of acquittal, and that disturbed her.

Bora allowed his eyes to wander over the faces gathered about him. Brush, Harrison, Hardy, Ramsey.... they were all there, and he thought of the previous trials this group had attended. He had learned of the events of the Johnny Allen Green trial where the time had arrived when Creig Matthews was being crucified by the eloquence of Dick Grainger. Hardy had reportedly stated that he knew a way to influence Judge Calhoun and the next morning had the front rows of the courtroom gallery filled with city councilmen and businessmen with whom the judge was familiar. The message had been all too clear. The power of the city wanted a conviction, and Bora admired Calhoun for his opposition to such tactics. But on this day, Calhoun would not be present. It would be Judge Donald Carroll, and it was obvious that Carroll had seen more than enough of Kenneth Andrew Bora.

There had been the three mistrials, all heard by Judge Carroll. At one point, Carroll had publicly admitted that he would "rather be whipped with a wet rope" than to try the Bora cocaine case again. Now, Bora would again appear before the judge, and the defendant was frightened and his fear was written upon his face.

His eyes fixed upon Kim Ramsey, and he thought, No, it isn't Kim Ramsey any more. It had been revealed that during the previous December, Kim had become Mrs. Creig Matthews. Bora's eyes wandered down her arm to her left hand where he detected the glint of her wedding ring. He thought it strange that they should have married. It had been the common agreement of those who knew the narcs that their relationship was nothing more than a "long term shack job," and to imagine that they had formed a union of marriage was something he could not understand. There had to be a reason for the marriage, he thought, but could not capture any purpose for it within the framework of his knowledge of the narcs.

He had come to know the narcs quite well over the past months. Not through personal contact, obviously. No, Bora had hired private investigators to conduct a thorough background check into Ramsey and Matthews and to submit to him every scrap of information they could

obtain. The reports had been filed away in his Hide-A-Way Lake home. When officers executed a search warrant of his home after the shooting of Matthews, they discovered the notes and from that deduced that Bora had planned his retaliation by gathering all the facts he could about his future victims. It was not reasonable to the investigators that Bora would have wanted background information for any other purpose than to successfully retaliate against those who had accused him. It was all right for the authorities to conduct an investigation of Bora's background, but for Bora to do the same to the narcs was somehow a vengeful tort that would provide a damning insight to his "true" character.

He had divorced his attention from the murmurings of his attorneys and now eavesdropped on the conversations filtering from the bench. Brush had asked Kim how Creig was doing and she had replied that he was progressing well, but there was still a question of whether or not he would ever regain full use of his arm. With her reply, the group had glanced in unison toward Bora, as if issuing a visual indictment against him. Their expressions related their thoughts and he knew they were condemning him for the injuries to the noted narc. He closed his eyes for a second, and then returned his attention to the narration of Tessmer.

"If it looks like it's going that way," he was saying to Bora, "we'll have to put you on the stand. Let's hope that it doesn't come to that, because it's always better if there's enough supporting testimony to prevent the defendant from testifying, but we'll just have to wait and see."

Bora nodded his agreement, not fully certain of everything he was committing himself to. "Whatever," he responded, and his resignation was apparent, causing Tessmer additional concern.

"We're not down-and-out," Tessmer offered with a smile. "Hell, we have some damned good witnesses on our side. We're going to make our scars on them, too!"

"I know, Charles," replied Bora. "I know that."

It had been exactly seven months earlier, to the day, that Bora had announced that he was considering dismissing Tessmer from his case. The local press had carried the story, indicating that Bora had already spent \$60,000 in his defense in previous trials only to find himself still facing the same charges as he had in the beginning. No, he thought, that story had not been accurate. He had not spent the \$60,000. He owed that amount

with no tangible reward for it. Yes, he had considered dismissing Tessmer and had toyed with the idea of defending himself. He now knew that such a move would have been a deadly mistake. He had a good working knowledge of the law from his days when he worked as a process server for the attorneys in California, but that had been a long time ago. In his moments of fantasies, he had envisioned himself swaying a jury with eloquent final arguments and had dreamed of the moment of victory when he had triumphed over the likes of Brush and Harrison. But that had been only a dream, and now he was faced with the reality of needing the expertise of someone like Tessmer. He smiled slightly with the thought and was thankful that he had relented from that plan.

It had also been in that period, October of 1979, that he had publicly offered a \$10,000 reward to anyone who could pass a polygraph while claiming that they had purchased drugs of any kind from Ken Bora. There had been no takers. Even that had provided little impact upon the prosecutors or the public image of his guilt or innocence. It was mentioned in the press, but there had been little, if any, reaction to the challenge.

There was now the sound of the crowd moving and Bora knew the bailiff had unlocked the door. Holcomb nodded toward the courtroom, as if it were a signal to enter, and Bora placed his arm about his wife and moved reluctantly into the courtroom he had come to know so well. They kissed quickly before she took her seat in the front row of the gallery, and Bora smiled toward her as he slide his chair noisily behind the defendant's table.

It was now beginning, and Kenneth Andrew Bora knew that this time, the stakes were higher than they had ever been. The maximum penalty for the crime now lodged against him was life in prison and a ten thousand dollar fine. Yes, this would be the ultimate test, and he gave a cursory glance toward the prosecutors who were busy placing long yellow tablets from their briefcases before them.

Tessmer had whispered to Holcomb. The question had been if anyone had noticed Tim McGuire or Paula Green within the audience. Holcomb turned in his chair to survey the gallery, but shook his head with a shrug. Bora joined in the search, but he could not detect the pair within the crowd. He wondered why Tessmer had asked the question, but was now given to accepting the actions of his counsel without inquiries. McGuire,

he thought, the friend of the narcs. Tim McGuire who had been guilty of far more than Bora had ever thought of doing, but who had never been charged with anything. The thought angered him. He recalled reading that McGuire had finally entered a guilty plea on the charge of carrying a weapon into Carroll's courtroom during Bora's arraignment on the attempted murder charges, and that Judge Milton Mell of the Smith County Court of Law had sentenced him to 30 days in jail and a \$300 fine. Thirty days in jail, thought Bora. Thirty days in jail for carrying a .357 Magnum into a crowded courtroom. By this time, Bora had spent 75 days in jail before bond had been established for him. Seventy-five days of jail for crimes he had not committed.

It was now time to regress. Bora thought back in a final gesture of panic to capture any scrap of knowledge he might have that would provide the devastating blow to the prosecution. He could think of nothing. He recalled only one moment of importance. It was a time when Tyler attorney Kelly Ireland had called Charles Tessmer and Bora to his office and Bora had waited in the lobby while the attorneys conferred. Ireland had the investigative report by Dennis Price. It was filled with facts about Matthews' background and Ireland thought it might be of value to Tessmer in his attempts to defend Bora. The problem was that Ireland was a court-appointed attorney assigned to defend Patrick "Cowboy" Denmark and others and there had not been adequate funds to pay Price for all the work he had done. The countless hours of investigation, the trips to Dallas to interview persons familiar with Creig Matthews' past, and the long days of digging for scraps of information had all been without monetary reward for Price. Now, perhaps there would be a way to obtain some payment for Price's services. Ireland offered the report to Bora's counsel for \$6,000. Tessmer reviewed the report quickly and smiled with what little he had absorbed. "I'll go out in the lobby and ask Bora what he wants to do," he told Ireland. Within minutes, Tessmer returned to inform Ireland that Bora had declined the offer. He was not willing to pay the \$6,000 for the report. Now, Bora wondered if it had been a bad decision. Perhaps the report had contained the very element he was now straining to locate within the recesses of his memory. Yes, perhaps that had been a moment of extremely poor judgment. No, there would be no miraculous last minute revelation flowing from his mind. He would have to depend upon

the talents of Tessmer and Holcomb, and he prayed within himself that it would be enough.

The jury had been selected, but this time, Bora had shown little interest. In the previous trials, he had been a studious observer of the selection process, attempting all the while to analyze each prospective juror and to attempt to determine the nature of the person. He believed himself able to gain insights into the person by paying particular attention to their idiosyncrasies, their unconscious gestures, their nervous glances in his direction. This time, however, when it was most important, he had been oddly detached from the process. He had concluded that within Smith County, they would be equally well off to declare that they would accept the first twelve people to enter the room.

In that moment as they awaited the announcement of the bailiff to rise with the entrance of Judge Carroll, he tried to view himself as he would be perceived by jurors. He did not like the image he determined. He was a burly man, one large enough to enforce any instinct toward violence. He had that innate aura of confidence that sometimes appeared as arrogance. He could easily be projected as the "major crime figure" prosecutors claimed him to be. Yes, he looked the part. He had not intended to appear that way to anyone, but had to admit that he did, indeed, bear the likeness of one attuned to the underworld. He recalled that word had reached him that one of the investigators had once described him as "a mean-looking son of a bitch," and he confessed that perhaps he had been right. Maybe the years of struggle had implanted his bitterness upon his face. Perhaps his upbringing in a materialistic philosophy had placed a sternness on him. It could be that the vast collection of disappointments in his life had hardened him to a visible display of all that was boiling within him.

The entrance of Judge Carroll brought the usual liturgy of the court, the rising of the persons within the room and the harsh announcement of the case brought before the tribunal. Once they had resumed their positions behind the table, Bora listened to the lengthy recitation by Carroll of the charges and caught the glare of the judge's eyes as he peered over the bench, his pale face made almost luminous in contrast to the black robes.

As was demanded by the protocol of the court, the attorneys pro-

duced their opening statements to the jury and Bora heard himself being damned by the allegations of the prosecutors, bringing forth elements of a character that somehow seemed to be someone other than himself. He had never considered doing the things now presented to the jury as being his personal actions. Yet, he had become accustomed to the charges and listened to them stoically, glancing from time to time toward Barbara, wondering if secretly she believed any of the charges. He was hinted to be a member of organized crime. He had been charged with the delivery of a controlled substance. He was known to be a major pornographer. He was most certainly the man who had pulled the trigger in retaliation that critically wounded Creig Matthews.

The opening statements seemed rushed, as if the attorneys were eager to do battle beyond the format described by their craft. Somehow, the events of the trial flowed by him without a conscious awareness. Bora was strangely divorced from everything about him, a pawn in the system that was condemning him, resigned to the fact that this, like everything else, was strangely out of his control.

The prosecution began the call of witnesses, a systematic program of testimony with statements from secondary witnesses supporting the words of the first. "The State calls Kimberly Ramsey Matthews," announced Chris Harrison. It was now the second day of the trial, and Bora could not recall a single event from the first day. He was beginning to question his sanity. He had found himself even wondering if the charges brought by the prosecutors could be true. Could it be that he had actually done such things without a conscious knowledge?

It was May 14, 1980 when Kim Matthews sat gracefully on the stand and smiled politely toward the jury. Judge Donald Carroll, a veteran of courtrooms for nearly three decades, was to later declare that Kim Ramsey was "one of the best witnesses I've ever seen. She simply couldn't be shaken from anything she had ever said." On this day, she would be no different.

Harrison covered the typical background of the slender, attractive narc. She had been an exemplary officer while in Plano. She had a good education with the drive to continue it even while in Tyler. She had been a dedicated opponent of drugs within the youthful culture of both cities. Quick, hard-hitting summaries replied to with terse responses sometimes

accentuated with expressions of an embarrassed modesty.

Now, the night of the shooting, Did she remember when sheriffs officers arrived to investigate the scene? Yes. Tell the jury about the quality of that investigation. Kim smiled slightly and then shook her head, as if it were a recollection of incredible proportions.

Kim recounted the opinion that the deputies had displayed a gross lack of professionalism. They had angered her with their interrogations. They had mishandled physical evidence. They had misinterpreted evidence found at the scene. "I am accusing them of completely destroying the crime scene and of doing a poor job on the investigation," she said bitterly.

Kim related how Creig had cleaned the racks of the refrigerator earlier that day by washing them with a water hose outside of the mobile home. The place where he had completed this task had become a muddy mire, and it was just below the window where the assailant would later stand. She claimed that there would have to have been clear footprints left by the gunman and these could have been used as evidence if five-to-seven deputies hadn't walked over the spot during the course of the investigation.

But there was a good reason why the deputies weren't interested in doing a good job, she claimed. As a portion of their eight-month investigation into Tyler drugs, there had been the peripheral objective of probing the Smith County Sheriffs Department for "gambling, prostitution and racketeering" activities, she announced. In addition, many of the deputies were upset with the narcs because of the Cindy Layne case, where the daughter of a deputy had been charged with a drug violation.¹¹⁰

The revelation brought a ripple of gasps from the audience. An inv-

110 Much was to occur on the night of the shooting that was never revealed within the processes of the court. Kim Ramsey-Matthews was to testify that she started giving first-aid to Creig and noticed the time was 1:35 a.m. She was to claim that it was close to 2 a.m. when the ambulance arrived. The 'call logs' at the Tyler ambulance service at Medical Center Hospital, however, clearly reveal that the call was received at 1:53 a.m. and the ambulance arrived at the scene at 1:59. At 2:13 a.m., the ambulance had arrived at Medical Center. There was, however, some indications that the investigation was less than professional. One deputy heard of the shooting over his CB radio while on a date and arrived at the scene with his girlfriend and borrowed a pistol from Tim McGuire!

tigation of the sheriffs office? Gambling? Prostitution? Racketeering? Harrison now moved to the account of the shooting itself and Kim's testimony was neatly summarized in the singular statement, "I saw Kenneth Bora smiling at me while he pointed a double-barreled shotgun in my face."

Bora tightened his jaw with the announcement. Kim had seen him smiling as he pointed the shotgun at her? The statement enraged him and he forced himself to recall the warnings of Tessmer and Holcomb to restrain himself at all times.

When Harrison had finished his questions of the young narc, Tessmer stood and gazed at her for a moment. He probed with minor questions before asking about the marijuana found within the mobile home. As always, Kim was prepared and smiled softly. Yes, there had been a small amount of weed found within the home. After all, they had only been in the mobile home four hours. They hadn't had a chance to clean it up completely. The marijuana must have been left there by the owner, Mitchell Frazier, and, after all, it was not a usable quantity. No charges had been lodged against Mitchell, that's how little there was.

Tessmer heard the testimony and frowned. It would be difficult to counter. The prosecution had called Tyler Chief Investigator, Doug Collard earlier and he had testified that he had not seen any marijuana at all at the mobile home. If it had been a larger quantity, certainly the man in charge of the city's investigation of the shooting would have known about it. Tessmer determined that it was best to leave the issue of the pot as something burning with the juror's minds. He would not pursue it.

Tessmer, for all of his skill, was little different from all other lawyers who had faced Kim Ramsey-Matthews. She had the uncanny ability to qualify every statement. "To the best of my recollection. . . ." she would state as a preface to every commitment. "As my memory serves me..... With that introduction, all other questions were nullified. If he stated that there certainly was the chance that she was wrong about her testimony, she would merely smile and reply, "Of course there's the chance that I'm wrong, Mr. Tessmer. It was a very traumatic and frightening experience. Things happened very quickly. But that is the best recollection I have of what took place." The jury now was less impressed with the fact that she admittedly could be in error, but remembered clearly that she had related

the facts as she could best struggle to remember them. In the midst of this logic, Kim held fast to the one glaring memory.... the singular, unshakable declaration.... she had seen Ken Bora's face smiling at her. After all, who could forget something like that? It was no longer "best recollection." That was the only thing of which she could be absolutely certain.

Tessmer excused her from the stand and now shared the sinking feeling that was invading Kenneth Bora's stomach.

While Harrison called to the stand a collection of witnesses to state that Matthews and Ramsey (now Matthews as well) were persons of good character and could be believed on the stand, Tessmer and Holcomb countered with an equal number who gave opposing views, that the narcs were not credible, and that their word was less than a matter of honor. Tessmer and Holcomb called Texas Ranger Stuart Dowell to the stand. The paunchy Ranger bravely declared that he believed the reputation of the narcs to be bad and that he did not believe the statements they had given him after the shooting. In his opinion, the attack could not have taken place in the manner the narcs described.

To support Dowell's allegations, Tessmer called Dr. Charles S. Petty, Chief Dallas County Medical Examiner, as an expert witness. As director of the Dallas forensic crime laboratory, Petty testified that the angle of the wound on Matthews' thigh indicated that he was not lying on the couch as he had testified earlier. Examination of x-rays and photos of Matthews' wounds had been delivered to Petty by Dowell and Smith County investigator, Tony Richardson. Petty neatly summarized that the wounds being inflicted as the narcs claimed was "impossible if the weapon and persons were in the positions described to me."

Petty described that the shotgun pellets had coursed into the tissue of the leg and traveled behind the bone in a downward pattern. If Matthews had been in a near-fetal position on the couch as he had claimed, the trajectory of the pellets would have been at a different angle. Also, he stated, as an expert, he would have expected to find considerable blood and tissue on the couch where Matthews had been lying or sitting, but there had been very little blood in that location.

The expert dealt with the minor wound suffered by Kim Ramsey and revealed to the jury that the construction of a shotgun shell is such that a cup within the shell is there to establish a clear pattern of the pellets. The

prosecutors claimed that Ramsey suffered the wound while being only six to eight inches from the end of the shotgun barrel, but Petty stated that the cup keeps the pellets together for a distance of 18 inches to two feet. Thus, he maintained, Ramsey could not have been wounded at that distance.

Even this damaging testimony could be easily countered by the team of Harrison and Brush. In their possession was the official ballistics report issued by Larry Fletcher, Firearms Examiner for the Institute of Forensic Sciences at Dallas. It read:

"On May 9, 1980, a review of work reported on March 1, 1980, was conducted. The absence of powder and powder soot, and the metallic levels at and near the defect are consistent with residue deposited by discharge of a shotgun at a range of more than about six to eight feet.

"An Ithaca 16 gauge shotgun, 26-inch barrel, was test fired tangentially at cotton cloth from a distance of six inches and eighteen inches. Remington ammunition with number 7 1/2 shot was used. Obvious and visible powder, as well as elevated metallic levels are present. At a distance of six inches, only slightly elevated metallic levels, but no powder or soot, were observed.

It is possible, therefore, that the residues on the K5 blouse¹¹¹ could have been caused by discharge of a shotgun at a distance of about six to twelve inches from the blouse, but less than eighteen inches.

"Inasmuch as the range of discharge could be more than six to eight feet, or less than about eighteen inches, the range of discharge into the blouse is indeterminate."

The expert testimony of Dr. Petty was shattered with the opinion of Fletcher, that the shot could have been at distances so varied that the entire findings were inconclusive.

The prosecution had called Mary Guthrie, a Justice of the Peace from Troup, Texas to the stand earlier in an attempt to impress the jury with Bora's faculty for seeking vengeance. Mrs. Guthrie had arraigned Bora in April of 1979 on the delivery of cocaine charge. She testified to the court that during the arraignment process, Bora had said, "He (Matthews) set

111 The tests were conducted in relation to the blouse identified at the lab as 'K5' worn by Kim Ramsey on the night of the shooting.

me up. I'll fix him. I'll get him!"¹¹²

Following Guthrie, the prosecutors brought a pathetic Creig Matthews to the stand to testify simply that he had not seen the gunman on the night of the shooting. But, he added, as he was prone on the floor, bleeding from his wounds on that night, he had heard Kim tell Smith County Sheriff's Deputy, Jim Collins, that the assailant had been Ken Bora.

Tessmer called Smith County Deputy, Bob Richardson, to the stand who stated that on that same night he had asked Kim Ramsey if she was absolutely certain the assailant had been Ken Bora. He testified that her response was, "No, sir. I'm not sure at all."

It was a rotation of charges by one witness, and counter-charges by another. The prosecution brought forth David Pierce, a resident of the Southpoint Mobile Home Park who testified that he had heard the shots and had seen a vehicle fleeing from the scene. It was a Camaro, he claimed. He could be certain about the make of the auto because he was in the process of buying a Camaro for himself and was very familiar with the design of the auto. This was the kind of logic that was a death-bell for the defense. It was one thing to have a simple opinion, but to have that idea supported by logical means was something having an impact upon the jury. David Pierce had had that impact, and it showed on the juror's faces.

The defense called another resident of the mobile home park, David Conway. Conway testified that he had been awakened by two loud gunshots on the night of September 15, 1979 and had looked out of his mobile home's window to see a person of "no notable size with no facial hair" get into a car and speed away only seconds after the shots had been fired. He then detected a second, smaller silhouette, running in a bent-over position. The second figure was illuminated momentarily by the lights of the vehicle being driven by the first person Conway had seen. He estimated that his mobile home was located but about 35 feet from the Matthews' home and he could clearly describe the first man as being

112 To this day, Bora denies the claim of Justice of the Peace Mary Guthrie. He repeats his question of why the woman would lie about such a thing, and finally shakes his head with disbelief. "What can I say?" he was to ask. "The woman lied. It's as simple as that."

about 5'10", wearing a jacket, and driving a red vehicle he thought to be about a 70 model Cutlass.

The second figure, he testified, wore blue jeans and a light-colored or beige top. He stated he heard rustling in the tall grass between their homes and then lost sight of the figure because of the moving truck that Matthews and Ramsey had parked in the driveway.

Perhaps now there would be that element of reasonable doubt, thought Tessmer and Holcomb. Conway had been a good witness. His statements were firm and concise. He offered no hesitancy. His testimony was followed by a succession of Smith County Sheriff's deputies who all testified that the reputation of Matthews and his wife as credible witnesses was dubious, to say the least. Yes, perhaps now there would be some doubt in the minds of the jurors.

It had finally reached the point. It was obvious now that the defense would have to call Kenneth Andrew Bora to testify in his own behalf. It was not the thing Tessmer wanted to do, but the course of the trial had perplexed him to the point of total frustration. Mentally, he recalled the entire ordeal. In the examination of Texas Ranger Dowell, Tessmer had asked for a transcript of a tape wherein Dowell had interviewed Creig Matthews. The prosecutors were unable to produce it. Dowell had delivered the tape to the DA's office and now, Harrison claimed, the tape was lost.

While examining Doctor Petty, Tessmer had been challenged by the prosecutors to produce the x-rays from which Petty was making his assessments. The documents were brought before the court, only to discover that the principal x-ray, the most crucial to their case, was missing. The testimony of Dr. Petty was almost thrown out by Judge Carroll, but the wily doctor was expert enough to have brought slides of the x-rays and was thus able to produce them for the court's review. His testimony was permitted to stand.

On five occasions, Tessmer requested of the court to have the prosecutors produce the tape of the Dowell/Matthews interview. On four occasions Carroll evaded the request. On the fifth, he denied the motion.

By now, Tessmer was so enraged that during the cross-examination of Creig Matthews, he found his mind going blank and he was unable to

pose questions to the narc. He felt the court, and Carroll, were biased against him and his client, and he seethed with anger.

Yes, the only remaining course of action was to place Kenneth Bora on the stand. Yet, Bora was not the dynamic witness he needed. All the man could state was that he was innocent, and that was not overly impressive to the jury. Likewise, Tessmer was too enraged to do an effective job in his examination, but knew there would be no use in requesting a recess.

The defense's questions were exacting and sharp. Bora outlined his activities of the night of the shooting and continued to declare his innocence. Beyond that, there was little to be offered. It was time for Chris Harrison to ply his craft.

Under examination, Bora recounted his actions of the night of September 15, 1979. Bora said that he had returned to Tyler, arriving at the Point 21 Club at about 10 p.m., after attending a funeral in Odessa, Texas. The funeral of his wife's brother. Once in the club, he met his younger brother, Stephen.

Steve had encountered an attractive, young woman in the club and they had been engaged in a long conversation prior to Ken's arrival. Now, the hour was growing late and under Texas law, the club would have to close at one a.m. He approached Ken, asking if he would be kind enough to give the girl, Regina Turney, a lift to her apartment on Shiloh Road. Bora agreed, and the three quickly made preparations to close the club. They turned on the house lights.... a warning to patrons that the club would soon be closing. They cleaned the bar and made certain the establishment was secured. They were later to agree that this was done and completed sometime between 12:40 a.m. and 1:05 a.m.

Bora then drove the girl and his brother to her apartment on Shiloh Road and waited in the parking lot while his brother told her goodnight.¹¹³ He was driving a Camaro. A Camaro like David Pierce had said he saw fleeing the scene of the shooting.

When Steve returned to the car, Bora asked him to go to the ranch

113 Regina Turney's apartment was only about 3 minutes from the Southpoint Mobile Home Park, but both Regina and Steve were to testify that they did not hear a car leaving the parking lot during the time they were saying their farewells. They both claimed Bora had waited the whole time.

with him and spend the night in Palestine. Steve refused, and Bora drove him back to the Point 21 Club where he dropped him off and then left to drive back to the Palestine Highway turnoff.

Bora was to relate that while he was waiting in the parking lot, he recalled hearing sirens in the distance. Later, he was to wonder if these were the sirens responding to the Southpoint Mobile Home Park, but told his attorney, Tessmer, that they could have been sirens going anywhere on any kind of unit.

Steve Bora, meanwhile, was abandoned on the parking lot of the Point 21 Club and was to walk the approximate 17 miles to Bora's Hide-A-Way Lake residence where he spent the remainder of the night.

Now, there was ample meat for Harrison to chew. The story was too bizarre to believe. Bora delivered Regina Turney to her apartment, ironically, very close to the scene of the shooting, and then returned to the Point 21 Club. There, he dropped off his brother to walk the 17 miles to Hide-A-Way Lake when he could have deposited him somewhere along Loop 323 where the walk would have been significantly shorter. If Bora attempted to explain the circumstances, there was always the lawyer's ploy, "Just answer the question yes or no, please."¹¹⁴

It was now the 16th of May, a Friday. The morning had been reserved for the closing arguments of the attorneys and Chris Harrison addressed the jury with blistering comments.

¹¹⁴ Had Bora been given the opportunity, he would have explained that he had taken his brother and Regina Turney to her apartment and then had asked Steve to spend the night with him at the ranch in Palestine. Steve had refused, stating that there were some people still hanging around the Point 21 Club and that he wanted to go 'party' with them. He asked Ken to take him back to the club. Once there, Bora asked Steve again to go to the ranch with him. Again, Steve refused. Now, Bora was disgusted with his brother's pursuits of parties and simply said in mild anger, "Okay, then, get out." He drove off without waiting to see if the cars within the parking lot were those of any of Steve's friends. Steve was soon to find out that his 'crowd' had departed and he was now marooned in the midst of night. He knew of nothing else to do but walk. Bora and Steve knew that this event would be a weak point in Ken's defense and Steve was not interviewed by prosecutors for two weeks after the happening. It was suggested during this period that the Bora brothers arrive at some story that was more logical, more reasonable to a jury. Ken refused to do so, stating that they would tell the truth. "If I get caught in one lie, they'll have me," he declared.

"Kim Ramsey saw Ken Bora shoot Creig Matthews on or about September 15," he reminded them. His reference to Bora was one of a "convicted pornographer" who was making a great deal of money by running a private club in Tyler and who was well known to the Dallas County's District Attorney's Office on Organized Crime.

Harrison dealt with motive and smiled slightly with the presentation. "Everything was coming up roses for Bora. He was about to become a partner in the club, until he met Creig Matthews and his world fell apart. He was a man losing everything. The club licenses had been suspended because of Matthews' testimony. Bora, like any animal who has had his territory invaded, he is going to kill."

The Assistant DA turned to Bora's own testimony, chuckling with the absurdity of it. "The times just don't fit," he told the jury. "Bora claims to have heard sirens in the distance as he sat in the parking lot of Ms. Turney's apartment, a three-minute drive from the agent's trailer, while his brother said goodnight to her.

"Deputy Linebaugh, the first on the scene, did not even arrive until 1:43 a.m." Harrison reminded the jury that Bora had claimed to have dropped off his brother at the club around 1:45 a.m. "The man is lying to you," he told the jury in vicious tones.

Harrison then moved to the testimony of David Pierce who testified that he had seen a Camaro leave the scene of the shooting shortly after the shots had been heard. Pierce knew what a Camaro looked like, he reminded the jurors. After all, he had been inspecting many of them with the hopes of buying one for himself!

"The man is lying to you," Harrison told them, and that seemed to be enough. He turned abruptly and sat behind the prosecution's table. Weldon Holcomb presented the first closing argument for the defense, stating that the State had made a concerted effort to discredit the Smith County Sheriffs Department. "The prosecution has raised a bug-a-boo that the sheriff is crooked and none of the deputies is competent," he said in his folksy dialect. He stated that the deputies had simply told the truth. That is all there could be to it.

The same was true of Dr. Petty, he told the jury. "They are experts, they don't care professionally who wins this case. And they say the shooting could not have happened the way the agents said."

Tessmer was more eloquent, focusing on the logic of the defense. "If you have been out of town to a funeral, as Bora had, and no one knew you were back, would you go to a club and let 300-400 people see you the night you were contemplating such conduct? Not unless you were stupid, and the judge in this case in warning Mr. Bora on an objection, called him 'an intelligent man.'"

Charles Tessmer reminded the jury that Bora was an "expert hunter" with vast knowledge of firearms and ammunition who "would not have botched up this job."

Tessmer, like Holcomb, asked the jury why the State had not called Paula Green or Tim McGuire to the stand, even though they were on the scene of the shooting within minutes of its occurrence. They asked why the State had not dealt with the issue of the marijuana found within the mobile home. It was because, he told them, that police officers are supposed to be above reproach, "like Caesar's wife."

Cautiously, he examined the faces of the twelve people before him and knew that there was something else to be said. There had to be that final blow that would remain indelibly within their minds while they were intent upon their deliberations. Yet, it would not come to him, and he smiled slightly, and returned to his seat.

Weldon Holcomb leaned against the jury box, smiling. He knew how to deal with local folks, and most of them appreciated his down-home style. With a slight smile, Holcomb recalled that Harrison had told the jury that the defense had attempted to lead them down a "rabbit trail" by confusing facts and data. Holcomb, in his home-spun approach, could not resist the reference. Holcomb stated that the prosecution wasn't so interested in rabbit trails, but were attempting themselves to make a rabbit stew. "To make rabbit stew, you first have to find a rabbit," he reminded them. "And Ken Bora is the rabbit in this case."

Holcomb then spoke of the sheriffs deputies who had appeared under subpoena in the case to testify. "The prosecution has raised a bug-a-boo that the sheriff is crooked and none of the deputies are competent," he said. "All these men did is tell exactly what happened."

He spoke of the firearms expert and of Stuart Dowell. "They are experts. They don't care professionally who wins this case. And they say the shooting could not have happened the way the agents said."

It was Holcomb's design to impress the jury with the evidence the defense had offered, to instill within their memories the degree of expertise provided by those offering their testimony. In his own mind, he felt he had accomplished that goal when he finally resumed his seat.

It was perhaps Hunter Brush who offered the best closing argument of the attorneys. Hunter Brush, reportedly a former divinity student with a hatred for alcohol. Hunter Brush, the man who now served as Smith County District Attorney for the second time. Hunter Brush, the man who disliked Kenneth Bora immensely especially now. It had been during the course of the trial that Bora had become enraged with the arrogance of the prosecutors and had glanced angrily in their direction. He noted Brush's hand, turned slightly inward, withered from birth. Cruelly, he scribbled a note and sent it down the table toward Brush. The District Attorney unfolded the note with surprise. What could Kenneth Bora be sending him a note about? His face reddened with anger as he read the scrawling message Hire the handicapped, it's fun to watch them work."

Now, Brush would seek his vengeance with all of the skills he had acquired through years of practice. He struck quickly, beginning with a request for the jury to return a guilty verdict. It was, after all, an impossibility for Kim Ramsey-Matthews to have made a mistake in her identification of Ken Bora as the assailant who shot Creig Matthews. She had seen Bora on many occasions. It was not as if she was viewing the face of a stranger. No, she knew him!

And, he said slyly, wouldn't it be absurd for Kim to falsely accuse Bora, knowing then that the real gunman would still be lurking somewhere, ready to repeat his attack?

In all of the months of investigation, he reminded the twelve people before him, isn't it strange that not one suspect, other than Bora, has surfaced?

The politician Hunter Brush then came into focus as he spoke of the endless struggle of the community in its battle against crime. He spoke of criminals manipulating citizens, and glanced theatrically toward Bora, as if suggesting that there is a symptom of the problem.... a representative of that criminal element.

Eight women and four men watched Brush take his seat and then

listened to the final instructions of Judge Donald Carroll. It was now early afternoon, and the jury was sent to their room adjacent to the courtroom for deliberations.

Bora and his attorneys retired to the hallway of the courthouse where they sighed deeply and muttered comments about 'hoping for the best.' By now, Bora knew the men all too well. He could read the silent messages upon their faces and knew that they were concerned. Greater still, he felt they were dejected. He walked to a corner of the building where he could be out of public sight, and Kenneth Bora sobbed.

"If it comes out bad, " Tessmer assured him later, "you can count on us firing off an appeal right away. There's enough in this damned case to file a dozen appeals."

Bora only shook his head. "They're gonna' get me," he moaned. "That's all they ever wanted to do, and now they're gonna' do it." Holcomb was more optimistic. He felt good about the course of the trial and felt there was more than a fair chance for acquittal. Quickly, he summarized the highlights of the process and in his narration, there was the glimmer of logic.... the faint light of hope. Perhaps the country-bred Holcomb could be right, and Bora's spirits lifted.

As they spoke, Bora saw the prosecutors and Kim Ramsey emerge from the courtroom and his temples throbbed with anger. He wanted to confront them, to scream his question of why all of this was being done to him. What had he really done to harm anyone? Of all of the people in the region, why had they chosen him to attack? Suddenly, he had to turn away from the sight of them, for this time the tears were those of rage.

For a long while, a silence dwelled between them. The attorneys and Bora sat quietly, as if strangers. The lawyers would, from time to time, move to the pay phone to keep in contact with their offices and to gain insights into other bits of business. To Bora, it was a strange thought. The attorneys would go about their business, their daily routines, but there was a better-than-even chance that he would be faced with the singular fate of gazing through prison bars. For him, there would be no other interests, no secondary activities left unfinished by the day's ordeal. Suddenly, the attorney's were a world apart from him, and he still could not understand why.

The jury in the Kenneth Bora trial were to spend only two hours and

fifteen minutes in their deliberations. At 3:20 p.m., they were ready to announce their findings to Judge Carroll.

"Ladies and gentlemen of the jury," began Carroll, "have you reached a verdict?"

An eternity existed until the foreman of the jury stood to reply, "We have, your honor."

Bora was reminded of the popular claim that a man's life passes before his eyes in the moment of death. In that painful moment, he was the panorama of the entire court process. There had been the indictment. He had even found humor in that. Judge Carroll had quashed the original indictment because of faulty language within its content. Again, the grand jury had indicted him on the charges, and this time there was no error. There had been the jury selection process, the gaunt, pale faces of the women the robust, stern expressions of the men. There had been tomes of words flowing from lawyers and witnesses making allegations and recounting events, both truthful and filled with fictions. It all passed before him....

"And what do you find?" asked Carroll.

Bora found himself inhaling deeply. He had been prepared for the moment, but now found that one could never be truly prepared to discover his own fate.

"We find the defendant, Kenneth Andrew Bora...." the words became unbearably drawn. It was as if there was an intentional pause for the sake of dramatics. "... guilty as charged."

Judge Carroll had warned the audience within the crowded courtroom that he would not tolerate any outbursts following the announcement of the jury, and Bora now found the stillness deafening. His senses detected only the cry of his wife, Barbara. "No!"

Tessmer was grasping his arm, muttering, "Don't worry, we'll appeal this son of a bitch!"

Slowly, Bora turned in his chair and faced his wife. Her tears coursed her cheeks and she reached out to him with an expression of panic. He shook his head slowly, watching the bailiff move toward him to return him to the bowels of the Smith County Jail. With an upraised hand, he beckoned for the bailiff to wait. He stared into Barbara's eyes and muttered clearly enough for all to hear, "There ain't no justice."

Charles Tessmer was advising the court of his intention to appeal and Weldon Holcomb offered his opinions of the matter to Bora. Somehow, the words did not register. He could only think of the travesty, the course of this mysterious process known as justice. It sickened him, and he stood to embrace his wife as the newsmen flashed their cameras about him. He held her closely to him, repeating the same words of comfort as he had received from Tessmer. All the while, he knew that she had been comforted no more than he had been.

"Mr. Bora," called a reporter, "can you tell me your reaction to the verdict?"

Remain calm, Bora told himself. Keep composed. No outbursts that might be remembered later. Say nothing that will damage you. "I'm disappointed," he said slowly. "I didn't think the evidence would bring a conviction."

Good, he thought. That was a good thing to say. It shows strength. It doesn't depict a man filled with fear or panic. Yes, it was a good comment. Now, everything would have to be weighed. Always think first.

"Did you hear it?" asked Tessmer. "Hear what?"

"The recommended sentencing by the jury." Bora shook his head. "Life," he said coldly.

"No," Tessmer said, grasping Bora's arm. "Twenty years and a ten thousand dollar fine. But that's just their recommendation. It's up to the judge to actually set the penalty. We've still got a shot."

Bora grinned softly. "A shot at what?" "Probation."

Ken snorted with an odd amusement. Probation for Ken Bora? That would be like asking for a T-bone at MacDonalds.

"Look, you don't have any felony convictions," said Tessmer. "There is an outside chance."

Bora nodded, watching the bailiff grow impatient. "When do we find out?"

"May 30th," replied Tessmer.

Bora nodded again. "And I stay in jail for the two weeks, right?" The attorney sighed. "Yeah. No bail now."

"Twenty years in prison, huh?" asked Bora incredulously.

"It's just a recommendation," interjected Holcomb.

Ken Bora now moved toward the bailiff, touching Barbara's cheek before leaving her. "Twenty years," he repeated. "For what?"

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There had been two distinct disadvantages. One was that Kenneth Bora had his prime defense attorney located nearly 100 miles away, and the second was that his trial was held in Smith County. With the vast distance between him and his counsel, Bora's lawyers had been unable to keep their fingers upon the pulse of the city and to establish effective communications with the many sources now lurking about the turbulent halls of the Tyler Police Department. If they had, they would have learned of the peculiar dangers in being tried in a Smith County Court by the Smith County District Attorney's office.

For all of Charles Tessmer's brilliance and far-reaching reputation throughout the state as an able attorney, he was still to remain unaware of the true facts that had led to his client's conviction.

Hindsight is a wonderful thing. It has no jeopardy. It is the backward glance into what could, or should, have been done by those operating under extreme pressures and fitting a particular case into a crammed schedule of many others. It is indeed easy to exercise hindsight, and one should never do so without the qualification of recognizing that it is a luxury never afforded to those who experience the event in the moment it occurred.

Had Tessmer been able to devote his full attention to the Bora case and stay within the city to probe its many sources, it is a near certainty that his expert skills would have discovered much that would have altered the outcome of the trial. The true facts are startling, and damning to a system that determined the future of a human being by selecting that evidence that should be presented before a jury. For that reason, one cannot be critical of the jurors, for they assessed and evaluated the facts that were presented, unknowing that these were not all of the facts, or that in some cases, the 'facts' were, in reality, only fictions disguised in the clothing of credibility.

A review of the Bora trial transcript reveals a host of alarming facts

that must be blended with references to the statues of the State of Texas and those prior cases within the system that have provided precedents. It is a difficult and complex process, but must be revealed in order to best appreciate the manipulations that occurred in the conviction of Kenneth Andrew Bora.

(1) Prosecutors were never to mention the fact that Tyler police officer, Keith Gwaltney, had visited their office prior to the trial and related to them that while he was serving as a security officer at Medical Center Hospital, he had been present in Trauma Room #3 when Kim Ramsey responded to Creig Matthews question of, ". . . who shot me?" Kim had replied, "I don't know. It was too dark." This statement was given directly to prosecutors within the DA's office and was related to the DA's investigator, Charles Carver, and to Hunter Brush himself! The prosecutors failed to inform the court that later, during the trial of the defendant, Gwaltney had told Assistant DA Chris Harrison what he had experienced that night at Medical Center Hospital and was told that his testimony would help the defense more than it would the State, and that he should go back on the street and forget that he had ever been to his office! Gwaltney could have also told the jury that he overheard Chris Harrison remark that he knew Ken Bora was not guilty, but since the State could not obtain a conviction on the drug case, Bora was going to get convicted on the deadly assault charge.

(2) The jury was never informed of the information held by officer Phil Megason. Megason could have told the jury that he personally heard Ramsey and Tim McGuire give a variety of accounts of the shooting and that the tales failed to be consistent. Megason could have further related that he personally heard Assistant Chief of Police, Kenneth Finley rebuke Matthews for 'messing up' the case and instruct him to identify Bora as the gunman! It could have been interesting to the jury that Phil Megason was not available as a witness because he was conveniently under indictment at the time for arson.

(3) During the course of Bora's trial, Tyler Police Department Chief Investigator, Doug Collard, testified that he had been at the scene of the shooting on the morning of September 15, 1979, and had not seen any marijuana at the scene of the mobile home. Jurors would have found the

testimony of Mike Lusk interesting since Lusk could have testified¹¹⁵ that he found a tray of marijuana in a clear plastic baggie within the mobile home. Lusk was the Sergeant in charge of Vice and Narcotics at the time. Lusk could have testified that the marijuana was dumped into a pillowcase and Lusk and Collard tied a knot in the pillowcase before marking it for evidence. The jurors would have found the supporting testimony of Smith County Sheriff's Deputy, Tommy Goodman, equally interesting if he had been able to testify that he was present at the time the marijuana was discovered and that, in his opinion, Doug Collard would have had to have known about it!

(4) jurors would have been interested in an official police department report, representing officer Keith Gwaltney's conversation with Kim Ramsey on the night of the shooting. Portions of this report was contained on the personal notes of Assistant District Attorney, Chris Harrison, during the course of the trial. The significant portion of the notes is Gwaltney's writings dealing with Ramsey's response to questions. "Describe stripe on car.... solid white Camaro or Firebird that she saw leaving the scene." This testimony would have been in direct contrast to that of David Pierce who was to testify that he was a "dark Camaro" leaving the scene.

(5) The prosecutors were so enchanted with the testimony of David Pierce and his revelation that he had seen a 'dark colored Camaro' leaving the scene shortly after he had heard the shots, that Chris Harrison saw fit to refer to it during his final arguments. What the jurors were not shown was the official investigation report of the Tyler Police Department, composed by Officer Eddie Clark, who had interviewed Pierce on the same day of the shooting. In that report, Clark had written, "Also talked to a David Pierce, WM, 27, lot number 291, and he advised he had heard several shots and saw a car leave but could not give a description of the car." Had this document not been suppressed, the jury would have been aware of the inconsistencies in Pierce's testimony, and the fact that he was interested in purchasing a Camaro had not been of much help to him on

115 Lusk did testify, in fact, during the Bora evidentiary trial that marijuana had been found in the mobile home and that Collard had assisted in marking it for evidence.

the same day of the shooting in making his identification of the gunman's vehicle!

(6) The prosecutors knew that they had in their possession a tape of an interview Texas Ranger Stuart Dowell had with Creig Matthews. In the content of that tape, Matthews stated that on the night of the shooting he was unable to identify his assailant because the curtains at the window were closed. Had the defense team been given access to this tape, they would have been able to question Kim Ramsey about how she had been able to see Kenneth Bora smiling at her through closed curtains! While the prosecutors claimed that they had, indeed, provided Tessmer with a transcript of this tape, the learned attorney maintained adamantly that they had never done so. If the prosecutors had been right in their claim, one could be assured that Tessmer would have questioned Ramsey and Matthews about the mystery of the closed curtains, but the trial transcript clearly indicates that he did not, thus giving evidence to the fact that he had never been privileged with the tape or the transcript of it.

(7) The prosecutors had concealed the fact that Paula Green, the girlfriend of Tim McGuire who had been sent by Kim Ramsey to call an ambulance the night of the shooting, had tendered a statement wherein she claimed to have stopped at a nearby mobile home in the hope of using the telephone, only to discover that the residents were not at home. While there, she noticed a suspicious car parked near the Matthews' mobile home. She could tell its location by the pattern of its headlights against the pine trees. Paula Green described the vehicle as a white, or light-colored Firebird. She was even able to give a description of the passenger in the vehicle; a man of small or medium build whom she stated was not either Ken Bora or his brother, Stephen. Paula Green went to Hunter Brush's office and gave him a written statement. Subsequently, Brush determined that Paula Green's testimony was not relevant, and thus chose not to provide Bora's attorneys with Green's testimony prior to the trial. Brush was to claim that he had spoken to a witness (or witnesses, he wasn't quite sure) and had been informed that the vehicle seen by Paula Green might belong to someone living within the mobile home park. It did not seem to matter to Brush that Kim Ramsey had stated to Officer Gwaltney that she, too, had seen a solid white Camaro or Firebird leaving the scene. Still, he chose not to permit the statement of Paula Green into

evidence or to inform the defense attorneys of its existence. The prosecutors found fit to offer David Pierce as a witness to state that he had seen a 'dark Camaro' leaving the scene and was very familiar with Camaros because of his desire to purchase one, but Paula Green had previously owned a Camaro and could state with total certainty that the car she saw was a Firebird!

In the application of hindsight, one must extend objectivity to the judge hearing the case as well. There is absolutely no indication that Judge Donald Carroll was aware of any of the suppressed documents or that the data known to the prosecutors had been denied to the defense attorneys. One can only speculate as to Carroll's actions had he known of such facts, but it is enough at this juncture to declare that he, in fact, did not know.

Within the structure of the system, such suppression is clearly condemned by high court rulings. In *Brady vs. Maryland*¹¹⁶ it is stated, ". . . due process is violated when material evidence that is favorable to an accused is suppressed by the State."

In *Giglio vs United States*¹¹⁷, the question of concealing facts that would discredit a prime witness whose testimony could have been the determining factor in deciding guilt or innocence is addressed. It goes without saying that in the Kenneth Bora case, the credibility of Kim Ramsey was the determining factor in finding Bora guilty. After all, Harrison began his closing arguments with the reminder to the jury that Kim Ramsey had seen Ken Bora on the night of the shooting and that he was the one pulling the trigger. In this reference case, however, the court ruled that, ". . . where the reliability of a certain witness may well have been determinative of guilt or innocence, non-disclosure of evidence affecting the credibility of that witness falls within the general rule that such failure is reversible error."

Hunter Brush may have felt privileged to withhold the statement of Paula Green by his independent decision that it was not relevant, but in *Griffin vs. United States*¹¹⁸ it is declared, ". . . the prosecution is not to decide for the court what is admissible or for the defense what is useful."

116 *Brady vs. Maryland*, 373 U.S. 83, C.Ct. 1194, 10 L Ed. 2d. 215.

117 *Giglio vs. United States*, 405 U.S. 150, 92 S.Ct. 763, 31 L Ed. 2d. 104.

118 *Griffin vs. United States*, 87 U.S. App. D.C. 172, 183 F. 2d. 990.

If one is to assume that perhaps the prosecutors had not received some of the pertinent data from the Tyler Police Department, thus making them equally unaware of its existence, as an example, the investigative report by Eddie Clark wherein David Pierce could not identify the fleeing vehicle, there remains *Barbee vs. Warden*¹¹⁹ where the court clearly ruled, "The duty to disclose is that of the State, which ordinarily acts through the prosecuting attorney; but if he too is the victim of police suppression of the material information, the State's failure is not on that account excused."

To be overly liberal, let us entertain the distorted logic that the prosecutors had not provided the defense team with the critical information because it had not been requested. *Barbee vs. Warden* further declares, defense counsel was not held to a duty to request information which he had no reason to suspect existed."

While virtually all of the parties involved outside of the defense team might proclaim a total ignorance of the information that had been denied attorneys defending Kenneth Bora, the evidence clearly indicates that a significant portion of it had to have been known to them, and that the only logical conclusion is that it simply was not shared with the defense. This conclusion supports the earlier claim that Bora had been convicted not so much by the evidence presented to the jury, but by that evidence and testimony that was denied to them.

As with all discredits issued to a person or agency, there must be credits as well. Hunter Brush may have generated the District Attorney's office that permitted such torts to take place, but it is to his credit that he operated his department as a task-master. He demanded long, hard hours from his staff and often burdened them with caseloads that passed the point of endurance or efficiency. His philosophy was that his office was designed to prosecute, and prosecute they would. Perhaps in the zeal to satisfy Brush, the assistants were driven to such ends, but they, by no means, could ever justify the methods.

If one discards all of the legal precedents referred to herein, the question remains of the basic Constitutional rights of the defendant, Kenneth Andrew Bora. It remains a vital question if his right to privacy and to be

119 *Barbee vs. Warden*, 331 F. 2d. 842 (4th Cir., 1964)

free of unreasonable searches and seizures was violated. It remains a crucial query if his right to conduct a business or profession under the 5th Amendment of the United States Constitution was violated. It is a valid question whether or not his right to a fair and impartial trial had been violated as provided by the 6th Amendment to the United States Constitution, and one finds merit in questioning whether or not Bora was given his right to due process of the law and equal protection of the law. In addition, his right to be free from false arrest, malicious prosecution, false imprisonment and unfair bail as provided by the 14th Amendment of the United States Constitution is equally in doubt.

The culminations of all possible violations against Kenneth Bora's rights, however, came on May 30, 1980, when Texas District Judge Donald Carroll accepted the jury's recommendation and sentenced Bora to twenty years in the state penitentiary and fined him \$10,000.

As Bora was led away to his cell within the Smith County Jail, one deputy was to mutter, "They finally got the poor son of a bitch. The only thing he's really guilty of is trespassing. He trespassed into Smith County."

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Within the content of the Bora trials, one element emerged that was distressful to the Dallas millionaire, H. Ross Perot. Kim Ramsey had been forced to admit on the stand that she and Creig were under the protective wing of Perot. It was a clear violation of the initial agreement wherein Perot demanded that there would be no publicity, but the wealthy computer magnate realized that it had happened during the course of court testimony, and accepted the revelation gracefully. It was apparent, however, that he would have to issue some sort of public statement to explain to the public how he had become involved in Tyler's drug investigation. On December 15, 1979, Perot submitted to the area's media the following declaration:

"Tyler, one of the finest and most beautiful cities in Texas, was stunned by the size and scope of the drug arrests, and the publicity and controversy in the succeeding trials. What happened in Tyler can happen in any city in our state.

"My only involvement with the Tyler drug trials has been to study the

impact on the community. This whole process has been very difficult, but the decent people of Tyler are succeeding in driving the narcotics traffickers out of their community. Tyler now has the reputation of being a hostile city for drug pushers, dealers and smugglers, and that is good for Tyler - especially the young people of Tyler. Drug traffickers will leave Tyler to set up business in other areas that have a reputation for lax law enforcement and prosecution.

"I met Officers Ramsey and Matthews by chance, after he had been shot. They badly needed protection. It was not available. I gave it to them.

"An experienced underworld executioner has been hired by a national crime figure to kill narcotics officers Kim Ramsey, a key witness in major drug trials, and the sole eyewitness to an attempted murder case being tried in Tyler, Texas. Her partner, Creig Matthews, now recovering from two nearly fatal gunshot wounds from a prior execution effort, is the secondary target. Officer Matthews was nearly murdered. Officer Ramsey saved his life by deflecting the shotgun barrel as it was being fired. Officer Ramsey's car has been fire-bombed. Both officers' apartments have been forcibly entered. Both officers have received death threats. It appears from this activity that the drug trials now underway in Tyler are but a part of a much larger operation.

"A trained, armed team is now protecting both officers. Security measures to keep these two officers alive have been intensified *because of the hired killer's record in successfully completing past assignments.* He has been convicted for prior executions. He is currently under investigation for another narcotics-related execution in this state. His current location is known. He is trying to pin-point Officer Ramsey's location. We are watching him.

"The most effective narcotic agents' personal and professional reputations are continuously at risk. If the narcotics officer has made a strong legal case, the defense attorney will attack the personal reputation of the officer during the trial. A standard defense tactic is to attack the integrity of the narcotics agent in an effort to cause the jury to question the credibility of his testimony. One of the most commonly used defense tactics is to try to label the narcotics officer as a drug user.

"The number one criminal and social problem facing the State of

Texas is narcotics. Narcotics officers live in a world only dimly perceived by the law abiding citizens of this state. They work 60-70 hours a week, associating with the worst elements of society. Their lives are frequently at risk. There is little public recognition of their work.

"We are protecting officers Ramsey and Matthews. They are safe. This same level of protection is available to any law enforcement officer in the State of Texas, facing the same problem."

By the content of Perot's statement itself, it became apparent that he had done little investigation into the narcs' background. If he had, he would never have made reference to the fire-bombing of Ramsey's car. By this time, there were people within the Tyler Fire Department and the County Fire Marshall's office who would have gladly enlightened him. Attempts to have Perot explain from what source his mysterious information came have failed. Letters sent to his office raising such questions have gone unanswered. But it is apparent that someone led him to believe that there was, indeed, a hired killer attempting to fulfill a contract on Kim Ramsey; a contract issued by a major national crime figure. To substantiate such a bizarre allegation, Perot had to be made to believe that the Tyler drug bust contained defendants with connections to the underworld. He was never to be informed that the defendants were a legion of youngsters who barely had an alliance with their own society. Yet, Perot maintained that the hired killer was known to him and that he was being watched by his security personnel. If this was true, then, who was this mysterious hired killer?

Joe Murphy, former Captain of the Garland, Texas, branch of the Texas Department of Public Safety, was convinced he knew. He could identify the man who was known for his "record in successfully completing past assignments" as Charles V. Harrelson.

Harrelson did not have the most savory background, that can be admitted with ease. Still, knowing that he was the subject of a federal investigation, Harrelson kept himself available at all times for that body and cooperated voluntarily with them. He denied adamantly that he had any connection with the drug bust in Smith County. What Harrelson *did have, however, was an attorney named Charles Tessmer!*

By naming Harrelson as the executioner, the implication was now established that Tessmer defended members of the under

world delegates from the Mafia. Since he was the same Charles Tessmer defending Kenneth Bora, that reputation could be easily extended to Bora as well! It was a plot beautifully conceived. It did not come directly from the officials of Tyler, but from the highly-respected H. Ross Perot. The mythical executioner was created to give new credence to the narcs and to place them in a higher public esteem as beleaguered public servants. At the same time, it reduced the image of Bora and Tessmer alike, placing them in the roles of an organized crime member and his mouthpiece. Moreover, it was a nice, dramatic flair that gave color to the entire incident, however untrue.

Tessmer immediately challenged the DPS to prove their allegations and supported the innocence of his client, Harrelson. With time, the existence of the fanciful hit man dwindled and was forgotten altogether. Harrelson was dismissed as the prime suspect in this fabricated role, and the matter was forgotten with no small amount of embarrassment. Yet, the damage had been done, and Perot had been an unwitting propagator of an intrigue that never was.

Perhaps a clue to the source of this misleading information is found in a statement by Perot to the Dallas Times Herald almost a year later: "I was attending the Tyler Rose Festival (in 1979). The Tyler chief of police approached me and asked if I would visit a police officer who was seriously wounded. Prior to that time, I knew nothing of the police officer's activities. I did not know the officer had been wounded.

"I was taken to a run-down dirty house and introduced to Creig Matthews and Kim Ramsey. Creig's position was poor. His wounds were infected. *The police chief expressed concern that the person who had tried to kill them would try again.*"

If Hardy was truly convinced that Kenneth Bora had been the assailant (and Bora was behind bars at the time!), why would he suggest to Perot that he had a fear that the person who had tried to kill them would try again? This would indicate that Hardy did not believe that Bora had been the gunman since Bora was confined in the Smith County Jail at that time without bond. The speculation, however, could be extended to encompass the theory that Hardy believed that a hired executioner was stalking Matthews and Ramsey, and his reference was made to that mysterious character. Yet, in the course of all of the trials (three trials for cocaine

delivery and one for deadly assault) where Kenneth Bora was the defendant, there was never a reference to this illusive gunman, and that would certainly have been a damning revelation to introduce to any court. The statement, however, is rather clear. It states that Hardy feared thatthe person who had tried to kill them would try again." That would mean that the first assault had been conducted by this mysterious executioner, as well! It would also imply that the man behind bars in the Smith County Jail was known to be innocent!

The police department made another of their misleading comments during this turbulent period. Jant Wilson, a reporter for the Tyler Morning Telegraph, was told, "They (Matthews and Ramsey) are still under (police) protection and were moved to the Dallas area after the house they were staying (in) off of Front Street was discovered."

The implication that Matthews and Ramsey were still under the protection of the police department is a total falsehood. They were protected solely by the security forces of H. Ross Perot, which is not an extension of any police agency. Likewise, it later became well known that Matthews and Ramsey had 'escaped' from the red rock house under their own volition, and that their disappearance was not discovered by the Tyler police for many hours. The statement, therefore, that they were "moved to the Dallas area," is equally false. The department had nothing to do with the narcs moving, and in fact, was the cause of the narcs feeling it was necessary to flee from the department's 'protection.'

Finally, it is another falsehood that their sanctuary was 'discovered.' There are no records or reports to indicate that this was the reason for the relocation of the narcs. It was true that Matthews and Ramsey feared the red rock house for its geographic vulnerability, but that too, raises an interesting question. If Ramsey was so certain that Bora was the gunman, why would they have felt so unsafe within the house? Again, Bora was held in jail without bond at that time, and they should have felt secure in that knowledge. The multitude of questions arise with ease, but apparently never occurred to the investigators within the Tyler Police Department.

Moreover, Perot had been led into demeaning defense attorneys. His charge that the "common tactic" of defense attorneys is to attack the narc's credibility appears to be something out of the Tyler official's

manual. He apparently had not become familiar with the charges of misconduct of the narcs that were rampant upon the streets of Tyler - tales that had the ring of truth to them - tales that were far more substantial than any rumor a defense attorney could have originated. Apparently, it was all right to attack the credibility of a defendant, categorizing him publicly as an organized crime member, but totally wrong to relate the facts of a narc's tainted background!

There can be little doubt that Perot had been misled. Misled by the officials of Tyler and by the grandiose tales spun by Matthews and Ramsey themselves. Perot's reputation as an outstanding citizen was well earned and deserved, and there is no reason to believe that he would willingly have participated in a story of such outlandish proportions had he been aware of its lack of credibility. In fact, Perot is to be commended for his charitable actions towards Matthews and Ramsey, and perhaps his only failing was that he believed the words of Tyler officials, believing them to be "official" sources.

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It had gone on for months. Even before the first Bora trial for cocaine delivery, Texas Ranger Stuart Dowell had been the subject of visits from the victims of the undercover operation who protested with an alarming consistency that they had indeed been guilty of some drug abuses, but were not guilty of the specific charge now lodged against them. Always, they would relate identical tales of equal drug abuse on the part of the narcotics officers and would speak in bitter terms of the manners of their entrapments. For the most part, Dowell had ignored the commentaries, terming them as "sour grapes."

Dowell was the personification of a Texas Ranger. His small eyes were set deeply over protruding jaws and his expression was unchanging, as if he would never believe anything told to him, regardless of the source. "If Saint Peter came to Stuart Dowell and told him that the word was that Dowell was going to heaven," remarked a seasoned Tyler attorney, "Stuart would only say, 'I'll check it out.'" In the trained mind of the Ranger, there were only two types of knowledge; that which was truth because it was supported by well-researched facts, and untruths. He had no time or

patience for rumors.

A veteran of the Rangers since 1969, Dowell was known for his ability to utilize his tenacious personality in the solving of many local crimes. He had been instrumental in cracking the case of Mike Martin, the Texas State Representative from Longview, Texas who had arranged to have himself slightly wounded to gain voter's sympathies. Like other lawmen, Dowell operated by gut feeling when all did not seem right, and his instincts were honed to a fine precision. He was, in many persons' viewpoints, a fearsome figure, burly and gruff of voice, wearing his service revolver high upon his hip. He wore the traditional Stetson, and chain-smoked Travis Club cigars. It was a fair assessment that Dowell was either highly respected or deeply feared, depending on which side of the fence one was on.

Dowell was also known for his proficiency with weapons. Humorists may spin yams about the noted lawman, but always beyond the reach of his hearing. A whispered tale was created about Dowell stating that he could shoot a fly with his revolver. The Ranger, within the story, fired a shot from his pistol as the observer laughed at the sight of the fly taking to the air. "You missed that one!" the spectator chided. "Yeah," drawled Dowell, "but his sex life is over."

Dowell had been summoned to the mobile home of Matthews and Ramsey shortly after the shooting. His critical eye surveyed everything within the home and he remained quiet, as he has the tendency to do during an investigation. Already, he had his doubts about the narcs.

"The first time I knew anything was wrong, or suspected anything might be wrong, was after the drug bust," Dowell was later to recall. "People that I had known in Tyler - and I knew them to be drug users, and I had had contact with them in other investigations and had gained their trust - came to me and told me stories of frames, of plants.

"I kind of shrugged them off as sour grapes. But many of these people never met each other, had nothing in the way of common backgrounds, but yet they all said he (Matthews) was a dope dealer or dope user."

Dowell filed the stories away in his memory, as if categorizing them for some future reference. In his stoic way, it appeared that he had no interest at all in the matter, which was exactly the image he wanted to project.

Now, Dowell had been to the mobile home and had attempted to re-

create the scene within his mind. He listened carefully as the victims were to make statements and returned to the mobile home to compare the physical facts with the content of the comments. The old gut feeling returned. Something didn't match. Dowell listed the inconsistencies:

(1) Kim Ramsey was to claim that the gunman fired toward Matthews from the window. If this were true, the shotgun pellets would have entered the wall directly behind Matthews. Instead, they hit the wall at an angle.

(2) Kim was to alter her story to indicate that the shotgun barrel had been inserted through some closed drapes. Matthews confirmed this statement. If this had been true, the drapes would have obstructed any view of the assailant's face and would have made the identification of Bora as the gunman impossible. Likewise, the drapes would have made it extremely difficult for the assailant to have aimed the weapon.

(3) Ramsey claimed that she had wrestled with the barrel of the gun in an attempt to keep the assailant from firing the second shot. She claimed that she had not been successful, that the gunman had managed to fire again, wounding Matthews in the leg. This would have been equally impossible. It was a matter of leverage. No matter what weight differences might have existed between Ramsey and the gunman, she would have been easily able to pull the barrel of the gun because of the fulcrum effect of her position. It would have been virtually impossible for the gunman to have controlled the weapon with a 100-pound person grasping the end of the barrel. Dowell had the event re-enacted under crime laboratory conditions and the findings were that it would have been an impossibility for the gunman to have aimed the weapon.

(4) Kim stated that she received blisters on the palms of her hands caused by the heat of the discharging weapon as she grasped the barrel. Dowell re-enacted this as well in the crime lab, having a colleague fire a shotgun as Dowell held the barrel. He was to state that it "wasn't even uncomfortably warm."

(5) Kim first stated that the lights were out in the mobile home. She stated that she recalled this fact because there was a gun near the couch and she couldn't find it because it was dark. In the same statement, however, she stated that she got to the end of the couch, crawled around

the end and unplugged the light that was on over her head.

Armed with his suspicions, now supported by the inconsistencies, Dowell attempted to inform officials of the doubtful elements of the narc's statements. No one would listen. The narcs had to be above reproach. If they were not, the quality of the cases pending within the courts would be placed in serious jeopardy. Willie Hardy dismissed Dowell's apprehension with a web of excuses, declaring that the narcs were clean and doubts could only come from those seeking them. The city's hierarchy was no better, refusing to believe Dowell's suspicions or to recognize that there were glaring faults in the stories told by the super narcs. Yet, there had always been that zeal to accept the narc's tales and to arrest and convict Kenneth Bora. Dowell recalled that during one of the initial meetings of the area's top lawmen, only he and Tyler detective, Eddie Clark had persisted in the posture that there was not enough evidence to issue a warrant for Kenneth Bora. It had been Hardy and Brush who remained adamant, and their power within the ranks was felt.

Dowell also recalled that it had been only two days after the shooting that he had been summoned to a meeting of the investigators to review the case. Upon arriving at the site of the meeting, Dowell was surprised to find Tyler City Manager, Ed Wagoner in attendance. Since when did the city manager of any city attend a meeting dealing with the investigation of a major crime? Still, he remained silent, harboring his perplexed feelings about Wagoner's presence. The meeting was held in the office of District Attorney Hunter Brush, and he wondered if Brush had made the unorthodox move of inviting Wagoner. Regardless, he was not going to be intimidated, he resolved. He would make it clear that he did not believe the story of the narcs, even if they were city employees.

In the course of the conference, Dowell bravely expressed his many reservations about the events as described by Matthews and Ramsey. He outlined the variations in their stories and explained how the angle of the shots could not have struck Matthews if he had been in the position he claimed. At least, they would not have struck him as they actually did. Wagoner was furious.

"He embarrassed me by his manner," Dowell was to say later. "It was implied to me that I really didn't know what I was doing or saying - that I was making a fool of myself."

Dowell left the meeting bitterly believing that Wagoner had "belittled" him by his statements and attitude, but he was now more determined than ever that he would pursue his gut feeling - the narcs were not telling the truth. He would go back to Matthews and he would question Kim Ramsey. He had not had the opportunity to interrogate Ramsey yet, but he placed it high on his list of priorities. Yes, he would persist.

In the days that followed, Dowell made official requests to have Kim Ramsey made available for interviews. Always, there was some excuse. She was not available.

"I tried to tell people from the first day that there was something wrong with the story," Dowell was to state. "They (Matthews and Ramsey) were immediately given protection by the city officials, and they became uncooperative."

Undaunted, Dowell continued to listen to those who wanted to come to him with their tales of the narcs' offenses. He listened attentively now, knowing that in the midst of everything that was said, perhaps there would be something that he could utilize to bring the matter before higher authorities.

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It was now June, 1980. One month after the Bora trial. Finally, Dowell had arrived at the point he wanted to be. He had two very reliable witnesses ready to appear before the Smith County Grand Jury and relate the horror stories surrounding Matthews and Ramsey. These were witnesses of quality. Their word could not be so easily impeached as would the run-of-the-mill defendants. First, however, he would have to pursue his own chain of command. He would have to call his superiors in Austin and reveal to them what he intended to do.

"I'll tell you what I want you to do," stated his supervisor. "Stuart, I want you to lay off."

Texas Ranger Stuart Dowell was back where he had begun. He was openly dejected. Had he known what was going on in whispered conversations in the locker room of the Tyler Police Department, he would have felt differently.

"Hey, didja' hear that Dowell testified for Bora?"

Yeah. Damn, that took guts."

"He doesn't believe Matthews and Ramsey."

"I know. And he's not number one on Hardy's hit parade right now, either."

"I think we've found him. Whadya' think?"

"I think you're right. We'll pass the word. Dowell's the one we can talk to. He won't pass on whatever we say. Christ, I was beginning to think there wasn't anyone we could trust."

"Okay, we'll see if the others agree. But, right now, it looks like we go to Dowell, right?"

"Right."

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If the division within the police department was budding, it had reached full bloom within the District Attorney's office. Since the previous January, no less than seven prosecutors had left the employment of Hunter Brush. Each had their own reasons to be stated in official declarations of resignation, but the underlying reason was constant, however concealed. Hunter Brush was the prime reason.

Brush was a complex man, given to a tendency to form alliances with one prosecutor at a time. The 'fair-haired boy' philosophy was in constant effect. A new prosecutor would be elevated to a level of esteem, embraced by Brush's favoritism, and then discarded from that lofty role as soon as another attorney, more impressive, appeared on the scene. As they ruled in their alternating roles of favoritism, these prosecutors took on powers of actual authority and were elevated to roles of prosecution sometimes greater than their ability to achieve.

The idiosyncrasy of Brush brought automatic division within the ranks. The favored newcomer was the least liked among the staff, being accepted only when he fell from grace, and everyone knew that would happen sooner or later.

Often the turnover was so rampant that the staff was critically short-handed. At one point, Brush had three vacancies within his department, and was having problems filling them.

Under the structure of the DA's office, prosecutors were assigned to

particular courts. Attorneys were given assignments to prosecute cases within Judge Phillips' court, Judge Carroll's court, or Judge Calhoun's court. These, of course, would be those lawyers with sufficient experience to try felony cases. Others would be assigned to the misdemeanor, or County Court's at Law. To transfer to one of the District Judge's courts was an elevation, and no small amount of jealousy reigned when a newcomer was automatically assigned to felony convictions.

To make matters worst, Brush had chided his opponent, former DA A.D. Clark, for the high turnover within his office during his campaign. "To date there has been eleven assistant DAs to resign within the last two years," Brush had stated. "This in itself is highly detrimental to the prosecution process."

Now, the turnover rate under Hunter Brush was, by far, exceeding that of the man he had defeated in the primary election.

On one occasion, Judge Kenneth Booker had several cases on his docket and had to leave the courtroom to search for the prosecutor to handle affairs for the state. He stopped everyone he saw in the halls of the courthouse, saying, "Have you seen Randy Gilbert?" Finally, he discovered Gilbert in another courtroom, preparing to try a case. It was incredulous. Gilbert had actually been assigned to handle the prosecution in three separate courtrooms? The staff of the District Attorney's office was so depleted that Gilbert was handling cases in both county courts-at-law and some felony cases in Calhoun's court.

Tom Dunn, the unfortunate attorney who had inherited the Johnny Allen Green case, had left the DA's office not long after that experience. He was to state that he left Brush's employ because, "I just didn't particularly like how Hunter was running the office. He formed more of an alliance with the people he hired."

Dunn explained that when Brush took office, he interviewed the prosecutors working there who had been hired by his predecessor, A.D. Clark. Only one prosecutor was asked to resign. Dunn was among those Brush chose to retain. "Then the people Hunter hired formed a clique," said Dunn. "There were numerous closed-door meetings where I and the others hired by A.D. weren't invited."

Dunn was also to be critical of his ordeal with the Green case. It had come upon him under strange circumstances. He had already turned in his

letter of resignation to Brush at that time. In the assigned rotation of cases, Dunn was to have the next trial on the docket. ... the State of Texas vs. Bruce Brunelli. At the last minute, however, Brunelli entered a guilty plea, thus negating the need for a prosecutor. The next case on the docket was Johnny Allen Green. Dunn was informed that he would be the prosecutor against Green, and he reeled with disbelief. He had done all of his preparation to prosecute Brunelli! He knew absolutely nothing about the Green case!

"I ran upstairs every time we had a break and asked Hunter if he knew what the hell was going on," recalled Dunn. Not only had Dunn not been prepared to try the Green case, but he had been totally shocked by the revelations brought forth by Dick Grainger that the super-narc, Creig Matthews, may have been a drug user himself.

"There were lots of things I wasn't privy to that I should have been privy to," said Dunn. "I was somewhat akin to the sacrificial goat."

Brush would later see things differently. "It (the introduction of evidence that Matthews was a drug user) just caught Tom off guard," said Brush. "Most of that (testimony) on its face was inadmissible, but Dunn had failed to file pretrial motions to prevent the accusations against Matthews from entering into testimony."

One must wonder how Dunn could have filed pretrial motions about the facts he had never been made aware of! Had Brush confided in his prosecutor, one can be reasonably certain that such motions would have been filed, but that was not the case. Brush's comments appeared logical on the surface, but failed in the most cursory analysis.

The resignation of Tom Dunn was not prompted solely by his frustrations over the Green case. He had other experiences with Brush that brought him to his final decision. Even when Brush approached him after he had submitted his letter of resignation, Dunn refused to remain with the DA's office. By this time, he had determined that he could not compromise himself with the policies of Hunter Brush. He recalled that on one Saturday or Sunday, he was called to a meeting with Charles Carver (Brush's investigator), Chris Harrison, Sgt. Mike Lusk, and Willie Hardy. Brush had called the meeting, and was also in attendance. The subject was plea bargaining. The police officers (Lusk and Hardy) were asked by Brush how many years they wanted particular defendants to get in plea bargains

if they entered guilty pleas.

"Hunter would say, 'Well, what do you want on old so-and-so? Four years? Okay.' Dunn was to relate while mocking the past conversation. Dunn deeply objected to the system. Police might be asked about the background and character of a defendant, but not to recommend or endorse a sentence. "Police opinions ought to be advisory," he summarized.

Brush was to defend his system, declaring, "Arresting officers often have much more knowledge (of a defendant) than they have time to put in their case report. This can be significant in proper evaluation of whether to give a person probation or how much time to give them."

Again, Brush appeared to be logical. Yet, when one considers that the chief of police and Sgt. Lusk were not the arresting officers making out the case reports, the quality of their opinions becomes questionable. It is unlikely that the chief would have the time to investigate the background of people arrested by a 100-man-plus department. And it is equally unlikely that the Sergeant in charge of the vice division would have such intimate knowledge of the character of each defendant. Brush was not asking the officers who "didn't have the time" to include such information within their case reports, he was asking officials who had had no contact with the bulk of the defendants in question.

Bill Saban, another prosecutor who left Brush's office, was later to declare that Brush's system of favoritism brought particular wounds. "Hunter's policy was that he wouldn't promote anyone to felony prosecution without experience in the district courts. However, I was kept so busy in misdemeanor courts, I couldn't get the experience in felony courts." Joe Max Hendley, Robert Teeter, and Don Martin also resigned from Brush's administration.

For Randal Gilbert, however, the complaint was not that he couldn't get experience in higher courts, it was that he was expected to do the work of three attorneys, in three different courts! In spite of this monumental workload, Gilbert would still come under Brush's criticism. In one instance, to reduce his workload, Gilbert agreed to a plea bargain that still brought the defendant a 45-year prison term. The convicted felon would not be eligible for parole for a full 15 years. Brush was to criticize this agreement, stating that Gilbert should have tried the case so that a

maximum sentence of 60 years could have been obtained. With that sentence, the man would not have been eligible for parole for 20 years, charged Brush. It was forgotten that the plea bargain could not be appealed, and by trying the case and possibly gaining a conviction would make the matter eligible for a long succession of appeals costing the DA's office countless hours in preparation time for appeal briefs. Likewise, it was not considered by Brush that the defendant would most likely not be paroled after his first appearance before the parole board after 15 years. Nor did it occur to him that in the time-span of 15 years, the defendant might become rehabilitated. No, nothing mattered to Brush except the fact that Gilbert could have sucked another five years out of the case. Least of all, it was forgotten that Gilbert was already prosecuting in three courts, carrying more than his burden within the anemic DA's staff, and that his acceptance of this role had saved Brush from many embarrassing explanations to the judges.

The one characteristic owned by the DA that is agreed upon by nearly all of his former staff members is that he was a stubborn man. Once he had reached a conclusion or formed an opinion, hell nor high water could shake him from it. He would tenaciously pursue it until it either consumed him or was driven into the spectre of a reality. This adamant nature also caused concern among the assistant DA's, for it was almost impossible to convince Brush that any other posture was correct except that which he personally harbored. This attitude left little room for the junior prosecutors to exercise their knowledge, or to display their skills. Each case had to be fitted into a particular prosecutorial philosophy, and many found the conditions thwarting.

With the resignation of Bill Saban, Brush now had three vacancies within his department. Two of them had gone unfilled for two months. Even so, Brush had not even advertised to fill them. There were some indications that the Smith County Commissioners were not altogether pleased with Brush's performance, for it was within their power to vote into effect a supplemental income for the DA, but they had declined to do so as late as January 30, 1980.

If an analyst attempted to determine the positive side of Brush's administration, however, it probably would be found in his determination to establish a new line of communications and rapport with the local

police. His predecessor, A.D. Clark, had maintained an almost silent relationship with the police department, as if he were denying their very existence. Brush made significant inroads, opening channels of communication and healing old wounds. Now, there existed open discussion between the agencies, and while it may have been Brush's finest achievement, it also spelled his eventual fall into public disfavor.

One Tyler patrolman was to recall meeting two Smith County prosecutors in a local café and being beckoned to their table, the attorneys cordially inquired, "How's things going in the PD?"

The officer moaned, "The department's going to hell in a basket." One assistant DA wryly replied, "When the department gets to hell, the DA's office will already be there to defend them."

Perhaps foremost among those who had reached the point of intolerance with the policies of the DA's office was the beleaguered Randy Gilbert. Gilbert had worked hard for Brush. The record proves his incredible caseload and reflects a 90-percent-plus conviction ration. Still, Gilbert was kept on the fringes of all of the department's activity, and remained as the pinch-hitter for other, less seasoned assistants. He was never elevated into the traditional role of the fair-haired boy, and his duties were confined largely to the lesser courts.

Brush, however, found it easy to underestimate Gilbert. The young prosecutor was eager to please and was cooperative in his assignments. There could be no argument with his diligence or his willing attitude, but he was simply not "Brush material" that would have brought him into that temporary circle of favoritism. It was overlooked that among Gilbert's prime assets was his uncanny ability to perceive errors in the establishments of motive. He was always able to review a case and determine that the defendant was either driven to his criminal act by this-or-that motive, or was most possibly innocent because of the absence of such motives. It was a trait lost somewhere in the code of his genes, but his mind was always analytical, and he reasoned well.

Gilbert had followed the first Bora cocaine trial closely. He, like many others, was surprised with the mistrial brought about by the juror providing false information on his questionnaire. But Gilbert noticed something interesting within the conduct of the case. Once the juror misconduct had been discovered, the defense did not call for a mistrial. Judge Carroll

reviewed the evidence of the misconduct, interviewed the juror, and independently declared a mistrial from the bench. Gilbert quickly reviewed the chronology of what had taken place and determined as a fact that the defense had not made a motion for the mistrial.

Under recognized Texas court decisions, the law provides that when a mistrial is declared from the bench, or is declared upon a motion submitted by the prosecution, the mistrial ends the proceedings with jeopardy.

That is, the defendant is free and cannot be tried again for the crime! Under this provision (which most attorneys interviewed agreed could have been easily defended with ease before an appellate court) Kenneth Bora should never have been tried again on the cocaine charge and that if he had been convicted, any appellate court would have overturned the verdict. Within weeks after the trial, Bora's attorneys became aware of this provision, and Bora was assured that no matter what a jury decided, he would never be effectively sentenced to the drug offense.

With this in mind, Gilbert now reconstructed all that had happened in recent months. Bora knew that he was in no real danger from a cocaine conviction and that it could be easily overturned by appeal. Bora was then charged with retaliation against the narcs in the September, 1979, shooting. Gilbert was now asking himself, retaliation for what? Bora knew that he would never go to prison on the drug charge.... thus why would he further endanger himself by retaliating against the narcs for a crime that could not be legally tried again?

This instance was but the beginning of the seeds of doubt to be planted in Gilbert's mind. Within weeks, he was asking off-hand questions of prosecutors and learning that other elements within the Bora trial were equally tainted. Moreover, he was convinced that many of the prosecutors trying the Bora cases were aware of the wrongs being perpetrated against the man. The horror stories continued, spanning forth into trials of other drug defendants. In some minds, prosecution had become confused with persecution, and Gilbert's sense of justice was deeply disturbed. Now, with abandon, he violated Brush's credo and spoke with defense attorneys socially, told truthful accounts of the disarray of the DA's staff, and even offered encouragement to defense lawyers facing the impossible tasks of defending drug charges in the wake of Matthews and Ramsey. The weary Gilbert was becoming disenchanted with prosecutorial policies, and

knew there had to be a sense of justice somewhere within the system. Meanwhile, he had become the prosecutor with the greatest tenure within the department, but he was already entertaining thoughts of a private practice. Soon, the turnover rate under Hunter Brush would increase.

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In that same backward glance laden with the luxuries of hindsight, one glowing testament remains. Judge Milton Mell of the County Court at Law, a diminutive man of almost pixie-like characteristics, was to provide the glitter of hope within the system. An unlikely source to say the least, but it was a moment of dignity that was so common to Mell's nature that he never recognized it as being unique.

The hindsight would have us return to the moment when Tim McGuire was to appear before Judge Melt, charged with the offense of carrying a concealed weapon into Judge Carroll's courtroom. At the time of the arrest, Kim Ramsey had been irate with the audacity of J.B. Smith to arrest McGuire for carrying the weapon. After all, McGuire had been performing a public service. He had been protecting the narcs.

She ranted from the halls of the Sheriff's office to the fourth-floor chambers of the District Attorney's chambers. Still, the charges remained but prosecutors were willing to bend to Ramsey's wrath and struck a bargain with McGuire that he would pay a \$100 fine and would be given six months probation. The deal was struck. McGuire agreed to the arrangement. Kim was soothed. It was a good negotiation. Everyone was satisfied.

On the day that McGuire appeared before the tiny man behind the bench, however, things were to change. The assistant district attorney informed the judge of the plea bargain arrangement. A \$100 fine and six months probation. It was agreeable with the District Attorney's office and all parties concerned. McGuire entered a guilty plea.

Judge Mell listened to the agreement and then reviewed it before him. Slowly, he looked up into McGuire's eyes. "I do not accept this agreement," he said coldly. "Next to carrying a gun into church, I can think of nothing more reprehensible than carrying a gun into a courtroom. I fine you one hundred dollars and sentence you to thirty days in the Smith

County jail."

Kim Ramsey was shocked. She had never seen this brand of justice in Texas before. She was never to see it again.

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Stuart Dowell was relentless. It was a portion of his nature, uncontrollable and intense. He worked methodically upon the cases flowing across his desk and achieved his usual degree of success, but the memory of Matthews, Ramsey, McGuire, Bora, remained as scars upon his mind. He could not dismiss the burning feeling that something was wrong with the case. Someone was lying. Not just the lies about the shooting within the mobile home, but lies throughout the course of all the trials. Lies against young people now behind bars who might otherwise be within society learning to walk straighter paths, or at least being apprehended in an act of criminal scope by justified means. That had not been the case with Matthews and Ramsey, and he was certain of it.

Systematically, he penned outlines of the entire episode, pinpointing areas of doubt and producing questions about the nature of the investigation. The more he analyzed the probe, the more sour his stomach became.

By this time, a larger number of defendants had come to him to speak privately about their personal ordeals. The story remained the same. There was the basic admission of guilt. Yes, they had experimented with drugs. Yes, they had used drugs. Yes, they had sold drugs from time to time. But.... they would always clarify they were not guilty of the charge that had brought them before the court.

Then, he reasoned, there had been the taping of Judge Calhoun. Surely there had been a reason for three, well-known, responsible men to perform an act of such dimensions. Could it be that the actions of the narcs were but a portion of a larger intent bordering upon a conspiracy? He wondered....

By August of 1980, Dowell was again contacting his superiors in Austin. Something had to be done. There needed to be a larger investigation into the Tyler drug bust than he was personally able to perform. He needed help and the endorsement of the agency to pursue the matter. He

emphasized, something must be done.

His supervisors agreed. Yes, something must be done. And the thing that must be done was for Stuart Dowell to back down. He was not to stir the troubled waters of Tyler, Texas.

Texas Ranger Stuart Dowell had been rebuked again. He had been met with an angry tirade when he had first approached Willie Hardy with the hope of convincing him that his super narcs were, in reality, dirty. He had been humiliated by Ed Wagoner when he expressed doubts about the narcs' accounts of the shooting during a meeting of top lawmen within the region. Now, he had twice been denied permission to pursue the investigation by his superiors in Austin. Even Dowell was now wondering what Smith County justice was made of.

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"Fifty years! Judge, please, listen to me! I can't do that! I can't do that much time! Fifty years! I can't do fifty years, Judge!"

"I know, son. But do what you can of it."

A Texas judge's response to a defendant's plea.

JUSTICE AND THE JOINT

For weeks, there had been the period of indoctrination and quarantine. Kenneth Bora had been placed in the 'holding pattern' of the Texas prison system where evaluations were made to determine where he would best fit within the system. There were levels of confinement in the network of the state's prisons, ranging from minimum security farm units to maximum security found behind the barren, foreboding walls of Huntsville. In each unit, however, agriculture is the main activity and every inmate, regardless of status, is expected to carry his burden within the fields beneath the blazing sun of summer, or struggling with other seasonal tasks during the bitter cold of winter. Always, there is an assignment to be done, and the inmates are kept harshly busy under the ancient philosophy that "...idle hands. . . ."

If Perot was to state that the citizens of Texas were only "dimly aware" of the world of the narc, then they are lost within the vacuum of a total, contrived ignorance of their prison system. Here, human beings are reduced not only to numbers, but to an animalistic state, as well. The obvious lack of sexual outlet promotes the sub-culture of the prison's homosexuals and open warfare exists between the dominant prisoners to claim a prize "punk" as their own domain. Not always are the homosexuals so inclined when they enter the prison's walls. A young, naive, handsome youth entering on "the chain" from some county jail will be closely scrutinized by the veteran inmates - the long-termers - and it will

be decided then that the youth will be "turned out" by whoever has the strength to claim and keep him. Vast political manipulations take place within the culture of the prison enabling the youngster to be assigned to the cell of the choosers choice. Usually, a few packs of cigarettes suffice for payment of such favors, for cigarettes are the common means of exchange behind the walls.

Once the youngster is so assigned, he is confronted within a locked cubicle with a tough, prison-wise con who uses any variety of methods to achieve his ends. Sometimes, there is the friendly approach. The youngster is permitted to smoke his "bunkie's" cigarettes and then to borrow a few packs. When the number of cigarettes is sufficient, the bunkie demands payment for his generosity. When the youth declares that he has no funds, the con informs him of the law of the pen. You always pay your debts.... one way or another. By night, through fear and force, the youngster is anally raped by his cell partner and from that day on becomes his property. He is his cell partner's "punk."

The law that one always pays his debts within the prison is absolutely true. There is the unwritten code that a debt must be paid, regardless of the method of payment. One can die for a pack of cigarettes, and a minor debt of this dimension has, more than once, produced a stabbing within the state's penal system. To the convicts, however, it is not a prison. It is referred to as simply, "the joint."

The network of information within the prison is astounding. There are no secrets. Once the young inmate has been "turned out," the news flows with rapid eagerness throughout the population. He is branded and fair game for anyone with more influence or strength than "the punk's" current "Daddy." Long-term punks who have surrendered to the fate of the system take on bizarre characteristics to advertise their status. Many become feminine in exaggerated ways, altering hair styles, plucking eyebrows, walking with a woman's gait, and becoming openly flirtatious within the population. There is a degree of security in such surrender, for it commonly provides that the punk will not have to fight the wars.... he will be the subject of such combat, viewing it from afar, as did the fair maidens during medieval times. If one was to accurately conduct a poll asking the two prime reasons for prison violence, the answers would surely be bad debts and the conflict over someone's punk.

The system is not without its element of honor, however. Rapists are not the most welcome segment of the prison's population. Child molesters are held in the lowest esteem and are almost certain to meet with some form of retribution from the inmate population. For this reason, such offenses are typically confined in a single unit where the offenders find peers with like charges. The code of honor typically prescribes that there will be no thievery between inmates. They do not steal from one another.... or had never been caught at it. Above all, they never snitch on one another. A snitch is the inmate prescribing his own doom.

The credo of the prison is simple. The first lesson learned by any new inmate is "Do your own time." That is, never meddle into anyone else's affairs. If you sit in your cell by night watching your cell partner construct a home-made knife, knowing that it is intended for the belly of some prison guard, the prison's philosophy is that such activity is your cell partner's business, and you never, never invade his realm of privacy. Above all, you would never assume the role of a responsible citizen and inform the authorities of such an action, for that would have deadly consequences. One learns quickly, "Do your own time."

The administrative philosophy is simple. Keep the men working at such a pace that they'll be too tired to cause much trouble. Generally, the food is of low quality, but sufficient to maintain one's physical condition. In fact, one of the phenomenas of prison life is that many inmates revert to some narcissistic impulse that leads them to weight lifting and they are able to build magnificent physiques while flourishing on the prison diet. The prison typically offers some limited athletic program, and prisons produce a wealth of athletic talent. From the walls of prisons have come well known athletes. Ron LeFluer was placed on the roster of the Detroit Tigers after being released from a prison. George Foreman became the heavyweight champion of the world after being paroled. The four minute mile has been shattered by inmates running behind prison walls. AAU boxing champions have been KO'd by inmates holding weight division championships of prison boxing programs. While prisoners always complain about diet, (and sometimes the complaint is extremely valid) it remains that the typical prison offers an adequate fare that maintains life and health.

The Texas penal system is unique in that it harbors the trustee system.

Herein, either by achievement or political intrigue, prisoners are promoted to the roles of pseudo guards. They live in special housing units where they are among their trustee peers. They receive no small degree of favoritism and serve as monitors of the inmate's work. They report individual work habits and assist in the supervision of inmates. In some instances, trustees have been utilized in searches for escaped convicts! Perhaps no ingredient of the system is hated more by the general population than the trustee system.

Within the Texas penal system is the Eastham Unit. It is here that the inmates represent two distinct varieties. One element represents the "cop killers" and men of extreme violence-potentials. The other is the composite of those inmates who would be endangered within any other prison. These are the group known by inmates as the "baby rapers" and those with exotic offenses found generally offensive by prison populations. It was to Eastham that the evaluation committee decided to send Kenneth Andrew Bora.

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There is an aura of despair about Eastham. It's very appearance gives the stark impression that little hope remains behind its confines of gnarled wire and then men confined there wear expressions of resignation, as if they had long ago surrendered to the knowledge that they no longer controlled their destiny or even the conduct of their days. Guards diligently conduct the entrance process to visitors and utilize their quick-reference systems to be certain that all who enter there are qualified or authorized. It is nothing akin to the light description given by Cherie Paro of her prison experience.... this is a prison of the harshest sense, where stone and steel form barriers to keep the undesirables from the vulnerabilities of society. For the most part, the prison serves its purpose well. It is distinctly more modern than many of our nation's prisons.¹²⁰ Still, it stands as a symbol of a society (indeed, all of the societies of

120 Interestingly, a ship of Spanish explorers carrying a cargo of prisoners from Spain, once went aground on the shores of the newly discovered, California, near the site where San Francisco now stands. The prisoners were intended to be used as construction workers in founding new settlements. Now, the ship was in need of repairs and the ship's captain was faced with the problem of where to house his rebellious cargo during the time of the repairs. Obviously, this event took place during the 17th century. Ingeniously, the captain ordered a stone blockade to be constructed to house the prisoners. That site was later to become the infamous home of San Quentin Prison and the block house built at that ancient time was still in use during the 1950s!

our planet!) that has placed a man on the moon, but cannot construct effective methods of true rehabilitation. It is, in short, a human warehouse where men are kept from the freedoms of a democratic society and thus forgotten by those walking its streets as free men.¹²¹

If such descriptions seem to be indictments against the system, indeed they are. The prisons serve little purpose other than to confine its inmates. Rehabilitative efforts have generally been stark failures. Expensive failures. The shocking rate of parole violations gives evidence to such claims.

Such criticism is fragile in one critical respect. While the prison system is an obvious failure, there exists few alternative suggestions of merit. Conjugal visitation, communal prison colonies, and the consideration of some European courts of the element of a trial that asks, "Did the victim deserve the act of the suspect?" all exist as modem realities, but virtually every developed nation has a prison system, thus has its rate of serious crime. Criminals and the prison system remain as the enigma of our culture, and the one institution and problem that seems to be without solution.

For Kenneth Bora, the prison system was something else. It was an education. He was too big and fierce in appearance to be in jeopardy by the segment of the population who preyed on young men. It was known

121 Rehabilitative programs have been general failures even though countless grants have been issued to discover new methods of reconstructing the criminal mind. For a brief period, it was considered that criminality could be altered by a surgical process.... a frontal lobotomy. This surgery was actually conducted on some California prisoners during the mid-20th century. In one instance, a chronic check-writer received a frontal lobotomy only to be returned to prison as a repeat offender. The lobotomy was a surgical process where a portion of the brain was inactivated and it was believed that this lobe of the brain controlled criminal thought processes! Elaborate corrective programs such as ICE (Increased Correctional Efficiency) and IT (Intensive Treatment) were luxuriously funded, but provided dismal results. Chronic alcoholics were also to be submitted to lobotomies, prompting the humorist to later comment, "I'd rather have a bottle in front of me than a frontal lobotomy."

far in advance of his arrival that he was "the bad ass who shot the narc." It was also known that trial testimony had declared that he had been a "one punch" expert in the fabled halls of Las Vegas casinos. While the latter charge was totally without truth, the information haunted him and he was to be viewed as a "bad actor" among the prison population.

This, in itself, held its dangers. Prison cultures operate much like the movie portrayals of western towns. The top gun awaits the day when the younger, faster gun arrives and the shootout takes place in the dust of the main street. The "top guns" of Eastham were waiting for Bora, and knew that his fame and reputation could be a threat to their dominance within the joint. Much would depend on how Bora conducted himself. If he made overt efforts to gain control of any segment of the population.... to become a "con boss" within the complex society behind the walls, then something would have to be done about it. There would be the shootout. The bad ass from Tyler would have to be shown that things were different in the joint. Being tough on the streets was one thing, but being joint-tough was a deadly and final game. It meant blood, and some intended for it to be Bora's blood.

It did not take long, however, for the old-timers to realize that Bora was of a different breed. He kept his mouth shut. That was a great merit in his favor. He spoke ill of no one. He ignored the internal politics of the prison society. He joined no particular group and displayed no allegiance to any philosophy of a prison faction. He gave no evidence of a sympathy with the black organizations thriving within the system, or the Chicano factions sometimes plotting wars with their rival groups. He showed no interest in the punks and gave up smoking cigarettes. There was no debt he would owe to anyone, and he asked no favors. His conversations were light and without probes into the affairs of others. He asked no questions, thus raised no suspicions. He avoided all guards. He conversed with no one within the administration except when called upon for interviews. No, Bora would be a threat to no one.

Instead, Bora spent his time browsing through law books. He searched for cases related to his own. He discovered areas of doubt within the conduct of his case, and he seethed with a silent anger over all that had happened to him. He would permit the population to believe he had been the "bad ass who shot the narc," but in his heart, he knew that he

was in the vast minority of the prison.... for he was an innocent man. The events of Bora's time in prison are difficult to determine. Prison authorities are reluctant, and sometimes openly refuse, to discuss the history of any inmate's term within prison. While prisoners lose all civil rights with their conviction, there is the mysterious code of honor within the administration that states that a prisoner's affairs behind bars are not open to public scrutiny unless they breach the rules of the institution to such a degree that they must be made known by some legal action. It is nearly impossible to confirm any tale coming out of a prison, for the code of the authorities differs little from that of the inmates. To speak of a prisoner's conduct would be considered "official snitching."

It was Bora's allegation that after arriving at Eastham, he was held in contempt by prison authorities. After all, he was a man known to have shot a lawman. There is a fraternity of lawmen that extends even into the realms of prison guards. It was for this reason, he claims, that there was a conspiracy formed within the prison's administration to have him beaten by some of the more easily influenced inmates. The assault was to take place within the cotton fields during their work assignment, Bora was to state. Fortunately, Bora had met a former Tylerite who tipped him off of the plan and the attack was "staged" by the convicts with Bora pretending to have been injured during the assault. With this, he maintains, the administrators were satisfied, and believed that he had gotten the message that his past conduct was not palatable to the warden or his staff.

Bora was also to relate that he was once standing in the "chow hall" line awaiting his turn to be served when another inmate moved to the counter and grasped a heavy metal pitcher containing boiling coffee. He moved casually toward a table where an enemy of his was sitting, partaking of his meal. The man poured the hot coffee over his enemy's head and started to strike him with the empty pitcher. He then returned to the counter to retrieve still another pitcher of hot coffee and repeated the process. Once he had beaten the man to the floor, he threw the pitcher across the room. Bora ducked the missile, but it struck the man behind him, causing him to have several stitches in his head. At that point, the assailant stepped back before the on-coming guards and raised his hands in a gesture of surrender. He had achieved all that he had wanted to. Whatever complaint he had had against his victim, he now felt it had

been repaid.

According to Bora, the guards then took the assailant out of the chow hall and Bora moved out of his place in line and moved nearer the door where he could watch what took place outside of the massive room. He had a clear view down the hallway where the inmate was standing, under guard, before the office of the assistant warden, who held the rank of a Major within the structure of the prison guards. He stated that he then saw the Major come out of his office and proceed to beat the inmate while the guards held the convict's arms. The attack was long and vicious, he recalled. Then, suddenly, the Major reeled over, collapsing on the floor. It was ruled that he died of a heart attack. The inmate, victimized by the beating, was charged with murder.

The tales of the violence and despair behind prison walls continued from Bora's recollections with an astounding ease. For him, such events were especially traumatic. It was one thing to be behind prison bars knowing that it was the ultimate destiny prescribed by your deeds, but for Bora, it was the result of a strange conspiracy that haunted him with the question of why he should have been the principal target of that plot. He fought to control his anger, knowing that the slightest expression of it would blend him into the animals within the prison that he often referred to as "the zoo." He would then fall into the role of being a target again for the prison guards, and he knew that there were those among them who would like nothing better than to have Kenneth Bora violate one of the institution's mandates for prisoner conduct.

His days were filled with thoughts of other problems, as well. He had now exhausted his resources. His home was being lost to the bank for non-payment. Incarcerated, he could not earn the money needed to remain current on payments. His autos were repossessed. His ranch was in receivership by the mortgage holder. His beautiful Arabian horses were being cared for by a benevolent rancher¹²² but the bulk of his wealth was now gone to the demands of attorneys. The lawyers were still pursuing the appellate courts to reverse the findings of his case, but his bills were mounting daily, and he knew nothing else to do but dismiss the attorneys from their tasks and hope to solve the problems himself by becoming

122 In later years, Bora's Arabian horses were to mysteriously die, one by one.

more astute in the law. He poured over the prison's law books in each free hour, and made extensive notes of those items he felt might be helpful to his cause. Perhaps he would perform the miracle. Perhaps he would learn enough of the law to combine with the residue of knowledge he maintained from the ancient days when he had been associated with the attorneys in California before being drafted into the army. Perhaps he would be able to represent himself, but he knew the folly of such a dream, for the process would take too long. In spite of his inner-awareness that he was chasing the impossible, he persisted in his studies and kept a tenacious schedule of reviewing the prison's law library.

It was a frustrating experience. When Bora would feel he was making progress, he would discover another portion of the law to discount the point he had spent days in researching. Often, he found that he was made buoyant by a revelation that could light the end of his corridor of hope, only to find that he was far off the track, and that the portion of the law he had discovered did not apply to his circumstance. Slowly, he came to realize that it would require someone already versed in the law to perform the task of gaining his freedom. But who would that person be? He could not afford to engage any of the attorneys familiar with his case. He was already deeply in debt to those who- had defended him in the past. No, it appeared to be a hopeless task. He was faced with two basic truths: (1) he needed an attorney, and, (2) attorneys did not work for free.

Kenneth Bora had been in prison almost a year. He had arrived at the institution at a time when the population was so great that inmates were living in tents within the compound. Socially-conscious reporters decried the conditions of the prison's "tent city," but the administration was immune to media attack. The public attitude was generally such that almost anything could be done to prisoners. Few citizens wanted prisons to be country clubs, and little public reaction was found to the accounts of the conditions at Eastham. "If prisoners don't like their conditions, they shouldn't have gotten themselves there in the first place," was the general consensus, but it was a difficult message for Ken Bora to accept. Under any circumstances, human beings should be allowed to salvage a portion of their dignity, he thought. Here, he was no longer, "Mr. Bora," or even the familiar "Ken." He was now Inmate Bora. He thought of the times when he had walked to the refrigerator without considering the liberty

expressed within that simple act. Now, his stomach growled as the hours passed toward the bell for meal-time. He recalled pleasant walks under a bright sun, the smell of freshly mowed grass, the sound of children laughing in a park, of reaching over in the darkness to feel his woman beside him. Each act had always been thought of as one belonging to all men. But now, he knew that it was not so. In the joint, none of these things existed. Life was assigned to the timed rotation of bells alerting inmates to the duty awaiting them. Even meals became a duty, and one was expected to respond promptly to the sound of the alarm. The only act of total independence was the ability to think, and he relished in the simple knowledge that no one could deny him of that right. He could think and remember, and those processes would remain undisturbed by the regimentation about him. That was the singular domain that the authorities could not intrude upon.

By this time, Bora had conversed with a small portion of the population. He had heard other horror stories of the work of narcs throughout the state. The tales were always consistent with his own. He was beginning to believe that he was not the only innocent man within the compound. He was wise enough to realize that few would tell the total truth of their encounter with the law, but he was also liberal enough to know that it had happened to him, thus it could have the equal potential of having happened to others. He determined silently that he would not judge. He would accept the stories told to him, knowing that there was the distinct possibility that they were as true as his own.

With the passing of the seasons, Bora found himself within the fields, pulling the long sack as he moved slowly through the rows of cotton. At first, he had found it humiliating. Filling the sack and presenting it to the trustees as a measure of his productivity was an act as contrite as any made by a priest. Kenneth Bora, the man who had secreted \$40,000 in his attic simply because he wanted to know it was there, was now plucking cotton from the plants and feeling the rivulets of sweat course down his back. The same Kenneth Bora who had known the time when young, buxom young women were as plentiful as the harvest before him, now slept alone on a hard cot and yearned for the simplicity of a touch. The Kenneth Bora who had possessed a stylish home in an elite area and a sprawling ranch where purebred Arabians pranced beneath the sun, was now hoping that

the contents of his sack would meet with the satisfaction of an inmate elevated to his position by the corruption of a system. He found it intolerable. Yet, he resolved that he would perform his tasks silently, working with the same diligence he had always known. After all, he reasoned, work was work, and he was well accustomed to it. In the most basic sense, it didn't matter if it was the building of a home with his brother's construction firm in Ohio; the remodeling of the theater in Amarillo; or the preparations needed to open the clubs in Tyler. Work would always be the expenditure of effort toward a goal, and he knew that his chore was expected of him, and he worked as hard as he ever had for greater reasons.

There were lessons to be learned by his plight, and Bora concentrated upon them as he felt the aching of his hands and back. A black man hummed in the next row, methodically picking cotton with the ease of a well-timed machine. Bora could associate now with the cause of the black man whose ancestors had been purchased by the affluent plantation owners to harvest crops where dominance and pestilence ravaged the newcomers from Africa. He could understand for the first time the indignation of the new generations of blacks, and he resolved further that these were lessons he would not soon forget.

Within prison, one seemingly can rely upon a single factor. Nothing good will ever happen. There are no miracles, no Perry Mason episodes where the guilty party surrenders to the torment of his conscience to admit a crime where freedom is finally found. There is only the assurance that the day may not bring another stroke of misfortune, and in that, the only goodness is found. If nothing bad happens, it has been a good day. Even these were few and far between.

"Hey, man," whispered an inmate from Smith County working the next row within the field. He kept his back to Bora, for the guards discouraged conversation.... it interfered with work. "I don't want you to get bent all outta' shape, but there's something you ought to know, okay?"

Bora squinted toward the man, cautious not to raise his head and attract the attention of the guard on horseback. "Yeah?" he replied, "Go ahead."

The guard spurred his mount and moved slowly through the rows,

glaring down at the men at their labors. During this moment, Bora and his partner in the next row remained silent. They quickened their pace in that moment, not wanting to invite a comment from the custodian. The guard moved at the slowest gait of the horse, watching the progress of the men, and the pair waited until they were certain that he was beyond the range of their voices before continuing. In those moments, however, Bora recalled that he had spoken to the man before. He had been a customer of his at the Point 21 Club. He had not remembered the young man from those encounters, but the man had been able to describe the interior of the club, so Bora was confident that he had been there.

"Go ahead," Bora repeated softly.

"I hate to be the one to tell you this," the man began. "But I'd want someone to tell me in the same spot, y'know?"

Bora grunted. "Yeah, I got you. Go on."

"It's your old lady. She's screwin' around on you up in Tyler."

Bora frowned, allowing the message to soak into his brain. It was not a question of whether or not to believe the man, for he innately knew that it was true. In prison, no one tells a lie of such magnitude. Such information comes from good sources, and if there is any doubt of its credibility, it is simply not related.

"You know that for sure?" asked Bora.

"Uh huh," replied the man. "You can take it to the bank. She's been seen. Lots of times."

Bora closed his eyes, swallowing hard. "Thanks," he muttered softly. He thought of Barbara. Small-town, wrong-side-of-the-tracks, Barbara. Innocent Barbara. The Barbara he had protected to such a degree that she had never even been permitted to view one of the x-rated movies shown in his theaters. He envisioned her tear-streaked face on the day of the trial and her sobs when he had held her in his arms for the final time. Barbara who had visited him religiously, always bringing a smile to his dismal world. The words echoed within his mind, "You old lady's screwing around on you. . . ."

In the joint, wives are never referred to by anything other than "your old lady. . . ." "My old lady. . . ." It is an integral part of the joint jargon that identifies womanhood in a derogatory sense, as if the plan had been to diminish their value so that the day of their betrayal would not be so

painful. For the most part, sadly, the history of wives' faithfulness to men behind bars is a dismal one. The cinema portrayal of the wife working as a waitress to save pennies for an eventual appeal is the most blatant fiction. The typical spouse remains by her husband but a few months, at best. By the time the realities of his absence strike her consciousness, she has returned to the role of an available female, open prey to the stalkings of men. For this reason, women are held in rather low esteem within the joint, and their loyalty is the subject of open knowledge.... for all inmates believe that such faithfulness is simply non-existent.

Among the more common experiences behind prison bars is the service of a divorce action wherein the prisoner has no right to protest, no avenue to oppose the action, for all civil rights are suspended during his incarceration. The process is simpler than that. It amounts to the whispered comments, "Don't mess with John today, he just got his papers." By that, everyone knows what is meant. It is a part of the workings of prison, and the inmates consider it a natural course taken by all womanhood.

As with all issues, one can find exceptions to this phenomena that destroys unions, but such exceptions are rare. The only relief from this perspective is found in the rate of husband's loyalty and faithfulness during a wife's incarceration, and in that, the scope of human nature is found as wanting as that of women. The difference lies in the frequency. More women have men behind bars than the other way around. It is a fact of life as constant as the divorce rate involving women who tire of waiting for a man whose future has been mandated by law.

To Bora, the news was devastating. He did not sleep the first night after learning of the revelation. His anger grew within him, and only the passive sense of his condition conquered his rage. He was not able to view matters with a certain objectivity he had never known before. That, too, had been among the lessons learned within the cotton fields at Eastham. He thought of the nights he had spent on motel beds with strange young women while Barbara waited for him at home. His anger slowly turned into shame. He perceived her plight, and recognized it as being far more valid than his lust had been in those days of freedom and plenty. She had needed companionship, and had undoubtedly sought it at any cost. She, too, was human. He determined that he would make her aware that he knew of her activities, but he would not do so in anger. It would be

revealed calmly, with understanding. Yet, if there was any remaining point to urge his wrath, it was found in the fact that Barbara knew him to be innocent. She was among those few people who was totally aware that he had not been guilty of any crime. If she should turn against him now, then he would be totally alone in the world, and the thought was more distressing than he had imagined.

With the opening of the gate for visitors, he saw her face among the crowd of women. She sat across from him, untouching and distant, as prescribed by prison rules. For a while they spoke of minor things, sharing a moment of pleasantness he relished. Bora knew her well. She would not be able to lie to him. A lie would reflect upon her face. "I've gotten word that you've been with other men," he stated, and he watched her eyes lower to the floor. It was enough. The gesture had been tantamount to a confession. She remained downcast and cold for the remainder of the visit, and he returned to his cell with the knowledge that all that had been told to him was true.

It was two weeks before Barbara would visit again. In the meantime, Kenneth Bora was served his divorce papers. Being in prison was adequate grounds for any woman to obtain a divorce, and he was not surprised to read the action pending against his marriage. He only sighed and recognized that there was a degree of wisdom within the inmate's views of womanhood.

"You can't do this," he told her on her next visit. "You're all I have left out there."

She nodded slowly. "I know," she moaned.

Slowly, he issued his plea. It was not the begging of a discarded man, rather the recitation of a logic dealing with his situation and her responsibilities as the woman who had made vows about their union. Surely she could wait until he was free. She knew that he was not guilty of any of the charges that had brought him to Eastham. Surely she could wait. Maybe when things worked out and he was free again by the appellate process, they would be able to work things out. As he spoke, he knew that the resolve would have to apply to him as well. He would have to be a better husband. He would no longer be able to state, "My only crimes in Tyler was that I made a lot of money and was a lousy husband."

As he ended his plea, Barbara fought the quivering of her lip and

muttered, "Okay, Ken, I'll wait."

Bora nodded. He wanted to touch her hand and let her know that he understood. Yet, all he was permitted to do was to think that perhaps the prison philosophy had been wrong. Maybe his old lady would be the exception.

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Warren Heagy had been an attorney in Odessa for several years. He had a sound, solid practice formed by good business sense and fair treatment toward his clients. Tall and slender, he was not an impressive courtroom figure as was Tessmer or attorneys of greater acclaim, but he did not handle criminal matters. His practice primarily dealt with Workman's Compensation cases. Over the years, a few criminal cases had come to him and he had represented the sons and daughters of his business clients, but for the most part, he could never claim to be a criminal attorney.

If Heagy was known by his peers for any particular quality, it was that he had an innate sense of fair play, but would resort to any method of presentation prescribed by a peer. He was a rough-and-tumble attorney who operated a no-holds-barred approach if his opponent chose to make things that way. Otherwise, he was easy-going and would prefer a gentlemanly approach within a courtroom whenever possible.

In the earlier days of his practice, Heagy had been approached by Kenneth Bora to handle some rather mundane business affairs and had done so with a promptness and expertise that had impressed his client. From these encounters, they had not become friends, but had established a mutual respect for each other's dedication to fulfilling their word and to deal openly and honestly about the matter at hand. Heagy recalled that Bora was unique among clients, for he never lied to his attorney. There were never any surprises in court. Bora always told it how it was, whether or not it was damaging to his cause. That impressed Heagy, and was the prime reason he remembered the man when the letter arrived upon his desk.

For months, Heagy had noticed the newspaper accounts of the Smith County drug bust and had felt as if he had been boasting when he had mentioned to peers that he had once known Kenneth Bora, the man

charged with the shooting of the narcs. "I don't remember his as being that stupid," he once had remarked over coffee. "He must have changed a lot."

The letter was on the standard prison stationery. The ruled lines contained the scrawling of Bora, outlining the highlights of his case and generally producing a picture of vast corruption within the Smith County system of justice. If he was to believe all that Bora was relating within the message, it was clear that there was no justice within the county, and that was difficult for Heagy to accept. The system simply doesn't make that many glaring errors. The check and balance system of the process would surely have prevented anything as elaborate as Bora's case from being transported through the courts. Bora presented a tale of conspiracy and intrigue. Of corruption of massive degrees, and persecution of astounding proportions. Certainly nothing so offensive could take place within a democratic system, and Heagy was tempted to shove the letter aside, to someday, when time permitted, respond with the typical rationale that his over-loaded schedule would not permit him to deal with a criminal case.

But the fact that Bora had contacted him reflected the man's desperation. Bora knew Heagy was not a criminal attorney. The letter told of the vast expenses in hiring Vollmer, Tessmer, Holcomb, and Finnical. Surely Ken was smarter than that. He should know that a lawyer dealing with bodily injury cases would not have the expertise to handle a criminal matter of such complexities. But the letter was there as a mute reminder that a man behind bars was placing a final hope in a past associate and had pursued that hope, however fragile.

Heagy pulled the letter back in front of him. Four times, he had shoved it aside, determined that he would not become involved in a case of this magnitude. He could not afford the time or expense of such a venture and he was in the business of being an attorney, not a Samaritan. But then, was he? The thought triggered an ancient thorn that had troubled Heagy over the years. He disliked attorneys who catered solely to the affluent. Yes, it built nice homes and permitted lawyers to drive Mercedes, but it was not the purest expression of the craft. For a long while now, he had seen the complexion of his practice turning toward that end. His clients represented oilmen from West Texas and wealthy dowagers frantically trying to churn another dime from some obscure investment. He

had represented large companies attempting to deny liability for obvious negligence, and had found delight in his representation of the lowly worker whose livelihood had been interrupted by an injury brought about by some corporate disregard for safety.

Bora's letter represented something more than a plea from a nearly forgotten piece of human flotsam from Heagy's past. It was the representation of an opportunity to declare that he was also interested in the downtrodden. That he had preserved some element of compassion for those without hope, and that his skills were not the exclusive domain of those with the ability to accept his final statement without second thoughts. It was also his declaration that the purity of law was not always demonstrated. He had seen it before. Innocence victimized by logic. Men without guilt sentenced in the name of retribution. Facts manipulated in the name of prosecution, and he had always thought it to be better phrased as "prostitution," for professional prosecutors were referred to by attorneys privately, as "state's whores."

If nothing else, he resolved, he would invest in a phone call to Charles Tessmer. He had met Tessmer before, and he would not be a voice probing for recognition. He would inquire into Tessmer's feelings about Bora's claims, and perhaps that would be the factor by which he would make his final determination. Inwardly, he knew the gesture was justification. If Tessmer expressed any reservations, then it would be his fault that Heagy had refused the case. Heagy would be relieved of the responsibility of deciding Ken Bora's future. He smiled with the secret confession, and recalled the wise man saying, "Self preservation may be the cardinal motive of mankind, but self justification is a very close second."

"Tell me about Ken Bora," Heagy stated after the typical greetings. "I've gotten a letter from him and I don't know how to handle it." Tessmer issued a long sigh. "You want it the way it is, Warren?" "Yeah."

"They raped the guy in Tyler. To this day, I don't know how the jury came back with the verdict they did. The narcs were dirty. That had been established already. Witnesses lied. The prosecution was out on a vendetta produced by the police department. It was a screwed up mess from the beginning. They just raped the guy. That's all you can say."

Oddly, Tessmer's narration of the case duplicated the content of

Bora's letter, and Heagy frowned with the recitation of the tale. It was not what he had expected to hear. Perhaps he had even hoped that Tessmer would relate something quite different. Then, he would have cause to shove the letter aside again and continue the pursuit of his lucrative business. Now, however, there was something greater than money. Now, there was a principle. Tessmer was stating that Kenneth Andrew Bora was an innocent man. Attorneys do not make such claims lightly.

Upon concluding the conversation and replacing the phone in its cradle, Heagy was more confused than ever. What now would he say to Kenneth Bora? Sound business sense would dictate that he should construct a believable excuse, dressed neatly in the clothing of reason, and decline from representation. Yet, that was the nature of all men. That was why there had not been a popular uprising to pull Christ from the cross. That was why the people passively stood and watched John bum at the stake. That was why the people passively stood and watched John bum at the stake. That was why the people passively stood and watched John bum at the stake. That was why the people passively stood and watched John bum at the stake. That was why the people passively stood and watched John bum at the stake. At some point in the course of every life, there has to be that time when one accepts the responsibility of compassion. There must be the moment when courage reigns over sense and one accepts the burden of his convictions. Heagy could not counter his own arguments, and dialed the phone again to arrange a meeting at Eastham with Kenneth Bora.

In later days, a writer was to submit to a major publisher an outline of the saga of Smith County's darkest days. It was an outline filled with the assembled facts of each event that was to become a scar on the region's history. With disappointment, the writer received a rejection from the publisher who declared that the proposed book could not be considered because it failed to present any heroes within the story. Everyone was a bad guy. Yet, had the writer and the publisher examined the events of this period with closer scrutiny, the existence of outstanding heroes would have been evident. They were to be found in the dedication of Dick Grainger to a cause that offered no rewards and a good amount of public disfavor. They were to be found in the persistence of lawmen who held fast to the belief in true justice and refused to surrender to the pressure of their superiors. They were to be found in those who believed in the most fundamental dignity of man, and sought to preserve it. Men much like Warren Heagy.

Through the tenure of his ordeal, Bora had engaged the most famous of defense attorneys within the region. He had expended thousands of dollars in his ill-fated defense. He had sacrificed every symbol of his material wealth in the cause of his innocence. Now, he had lost everything. Now, he was deeply in debt, and now, he was delegated to a Workman's Compensation attorney in faraway Odessa who was rather obscure in criminal law circles.

For Heagy, however, there was the pledge of Charles Tessmer to be of any assistance he could in the fight for Bora's freedom. His records and investigations would be opened to Heagy at his request. Tessmer would offer whatever advice he could, and attempt to steer the Odessa attorney in the right directions if any questions should arise. In addition, there were the transcripts of prior trials that would help in determining the decisions of the court and by what avenues they had been arrived. There were also the monitors of the prosecution's posture on most critical matters, and they would provide warnings as to what could be expected if Bora's case should ever again reach the courts. In this respect, Heagy had the advantage over Tessmer and Holcomb, for he had references to the attack plans of the prosecutors, and little would come as a surprise to him.

First, however, there would have to be the meeting with Bora, and Heagy reserved a day for travel to Eastham. A private pilot, Heagy had an advantage in that he could move about the state quickly and could tighten his schedule accordingly. The flight to the Eastham Unit would be a short one, perhaps leaving enough time for Heagy to fly to Tyler and obtain important documents about the case. He could, in fact, stop over in Dallas and meet with Tessmer, and still be back in Odessa at a reasonable hour. Yes, being a pilot with his own plane was a distinct advantage, and permitted Heagy much greater freedom than was enjoyed by most other attorneys.

At Eastham, Heagy was led to the interview room where attorneys were permitted to face their clients without the confining glass and telephones as was the case with most visitors. He was arranging his note pad and pen on the table when the guard returned with a thinner, more haggard Bora than Heagy had remembered. Still, there was a glint of hope within Bora's eyes, and Heagy knew that he represented the man's last

hope. He extended his hand in greeting and watched as the guard moved to the corner of the room pretending not to hear their conversation. There were the typical introductory statements that were but reflections of Bora's nervousness. He inquired about old acquaintances in Odessa and seemed to relish in the accounts of their current status. Heagy sensed all the while that his prospective client was eager to get into the details of his case and struggled to recall the introduction he had memorized while in flight.

"Ken," he began, "you and I have known each other a long time. In all of that time, I don't think that we've ever known each other to lie. Let's keep it that way, okay? Tell me the exact truth. Leave nothing out. Don't try to hide anything, because whatever it is, it will come back to haunt you. I can promise you that."

Bora smiled slightly, nodding. "I don't have anything to lie about, Warren," he replied.

"Good," said the attorney, returning his smile. "Then let's get the shit on, okay?"

For two hours, Bora described in intricate detail the course of events that had led him to his present state. From time to time, he paused to inform Heagy that what he was saying was what really happened, and then would continue to narrate what the Tyler Police Department had claimed as the event. Always, the views were polarized. Still, Bora interjected tidbits of information that were damaging to his case. He had an extremely fragile explanation for his whereabouts at the time of the shooting, but confessed that he knew the pitfalls of his tale, but he had to live with it because it was the truth. The approach impressed Heagy, and there was something about the sincerity of each word that was slowly leading him to believe that he was encountering the rare experience of interviewing an innocent man within the walls of a prison.

"But why, Ken?" he asked seriously. "Why should the police go through all of this trouble just to convict you?"

The big man gazed sadly toward the attorney. His broad shoulders rose and fell in a hopeless shrug. "I don't know, Warren. Honest to God, I don't really know."

"There had to be something," Heagy persisted. "Think back now. Did you lay the daughter of some judge or something?"

Bora chuckled. "I didn't ask their daddy's profession," he admitted. Heagy scribbled his notes, smiling with the response. "Well, there had to be something."

Bora agreed. "I know, but all I did in Tyler was work eighteen hours a day. I didn't run around anywhere else. I wasn't into anything that could have gotten me into trouble. I've racked my brain trying to think of something that would have made them go after me, but I can't. I really can't."

Heagy was silent for a moment. He recaptured his memories of Tyler. Provincial Tyler with growing pains. Conservative Tyler with its puritanical views. Closely-woven Tyler with its built-in aristocracy. He envisioned the large man entering the city to open two night clubs that captured the fancy of the area's youth. He rationalized that with the growth of the city a frantic, overpowering growth narcotics had arrived on the scene. In the typical East Texas approach, lawmen attempted to determine why such a phenomena was taking place within their midst. They had to point to someone. Who would be more likely than the burly man operating nightclubs and amassing wealth at an alarming pace? Yes, he could understand how such a thing could happen there, but he did not reveal his opinions to Bora.

Bora signed and leaned back in his chair. He draped a broad arm over its back and gazed at Heagy. "Whadya' think?" he inquired.

Heagy frowned with an apologetic smile. "I don't know what to think, Ken," he admitted. "I want to think that things like this just don't happen in America. I want to believe that the system is better than what you've described to me. I want to believe a lot of things, but right now, I find myself believing you."

Bora leaned forward with a smile of relief. "I'll take a polygraph," he offered eagerly. "I'll take a polygraph saying that I never sold them drugs. I'll take one saying that I didn't shoot them. I'll take one saying that everything I've told you is the absolute truth."

Heagy grew serious, staring into Bora's eyes. "You'll have to, Ken. You'll have to do just that."

"Have I got a lawyer?" asked Bora excitedly. Heagy nodded slowly. "You've got a lawyer."

A deep sigh escaped from the big man. "Good," he replied. "What's it gonna' cost me?"

"I don't know. There's no way of telling yet, but we're not going to worry about that right now. What the hell's the difference? You don't have any money anyway."

Bora chuckled with the thought. Heagy was absolutely right. "Maybe I will have someday," he responded.

"We'll talk about it then," replied Heagy. "Right now, I have to beat it back to Odessa and see if I can find Jerry Davis."

Bora looked perplexed. "Who's Jerry Davis? I don't remember that name from anywhere."

Heagy glanced knowingly toward his new client. "Davis is the guy I'm going to use as an investigator in Tyler. I'm going to turn him loose on everyone up there. He's a former narc and knows all the ropes. He'll find out more in a day than you or I could in a year. He's a feisty little son-of-a-bitch, but he'll do a number for us."

"God," said Bora, "I sure as hell hope so."

Heagy leaned forward, lowering his voice as he noticed the straining of the guard to hear. "Ken, either you're going to spend twenty years in here, or we're going to tear Smith County a new ass. It's going to have to be a fight on their level. If you've told me the way things really are up there, then it's going to have to be that way. If they want to play dirty, we'll get dirty. If they want to manipulate, we'll manipulate. That's the way it's going to have to be. I just want to know if you're ready for all of that. Have they taken all of the fight out of you? That's what I have to know."

Kenneth Bora hardened his jaw and glared fiercely. "They'll never do that to me, Warren. If I ever wanted a fight, it's with those assholes in Smith County. You call the shots, and I'll be ready for it."

"Good," summarized Heagy. "Then Davis is our man."

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Jerry Davis had been the perfect narc. He was one of identical twins, and with his brother, they had formed an effective narc team that never permitted a suspect to know which of the Davis brothers he had encountered. For the most part, none of the suspects knew that there had been two Davis brothers at all! For years, they operated with ease through the drug culture, resorting to the tricks of the trade that was instilled in every

narcotics officer. Davis, however, maintained the dignity to admit that he was less than pure in his activities and functioned with a touch on reality while making formidable cases.

He had been instrumental in cracking some of West Texas' prime drug operations, and knew the inroads toward the center of such activity, as if it were but another of his senses. Above all, he was recklessly fearless, and found no hesitation in asking the most probing questions. After leaving the state's service as an active narc, Davis had entered the field of private investigation. His knowledge of subcultures and the countless personalities involved within them made him invaluable to many attorneys, and he could typically steer them in the right direction when they were in need of information.

Among Davis' idiosyncrasies was his tendency to ask questions toned as if he already knew the answer. He would ask of Tyler's vice officers, "How far down the hit list did you get before you ended the investigation?" It was thus assumed that the hit list existed, and the approach caused Tyler's lawmen no small degree of frustration. Always, he was ready to support his position with some little-known fact that he had dug out of some archive somewhere. One of his earliest convictions was that the infamous "hit list" did, indeed, exist. He learned that Barry Austin Smith had reportedly been near the top of the list and then routinely uncovered court records indicating that on one occasion Smith had a traffic violation that was heard in Tyler's Municipal Court. To represent the city, the officials had hired the local favorite, Charles Clark. Charles Clark representing the City of Tyler in Municipal Court? questioned Davis. Why would someone as prestigious as Clark make an appearance in such a low court? It could only mean, in his mind, that the City of Tyler had been very anxious to gain a conviction, however minor, against Smith. Typically, a traffic violation would be handled by the City Attorney, and to spend taxpayer's dollars to hire Clark in such a case was a strong indication that someone was out to get Smith and prove some gnawing point. Yes, he surmised, there had to be a hit list, and the reports were most likely true that Smith had been near the top.

When Davis arrived in Tyler, under the assignment given by Heagy, he discovered that on one of the walls of the police department was posted a large photo of the private investigator, Dennis Price. Beneath the photo

was the printed warning, "Beware Of This Man!" Within days, Davis' photo was posted next to Price's, and the sign had been altered to read, "Beware Of These Men!" The gesture was enough to assure him that he would be *Persona Non Grata* in Tyler, and only the renegade faction of the department would be willing to converse with him. Fortunately, it was enough, and he learned a great deal within a short period of time.... enough to report to Heagy that the situation in Tyler was very much as Kenneth Bora had described.

For the most part, Davis recovered the tracks made by Dennis Price, confirming each discovery and adding his own flair to his fact-finding mission. Unlike Price, Davis would linger around the halls of the courthouse, catching the conversations of the "courthouse guard," those who found some odd recreation and fascination in attending court cases. From them, he was able to glean tidbits and insights that would never be contained within official court records. Likewise, he managed to engage local defense attorneys in conversation, learning from them the subtle details of the county's operation, and the methods of the local police. Still, his prime goal was continually thwarted. He wanted to meet with Creig Matthews and Kim Ramsey. Few, however, would offer information about their whereabouts, but would merely reply with a shrug of shoulders and a reply amounting to, "Who cares?"

Occasionally, he would drive his rented car to Tyler's airport, Pounds Field, and meet Warren Heagy's private plane. The attorney would share a few hours with his investigator, going over the information gathered, and then return to Odessa with a new sense of confidence that he had been right in his decision to defend Kenneth Bora.

Slowly, Davis was able to uncover the hidden elements of Bora's plight. He learned of the suppressed documents identifying the assailant's car on the night of Matthews' shooting as a white Firebird. He was able to discover that Gwaltney and Megason had tales to tell, but had not been permitted to do so by the prosecutors. He drove the route from Regina Turney's apartment to the Southpoint Mobile Home Park, and from the park to Bora's ranch in Palestine to verify the statements of the investigators. He asked endless questions about Bora's activities, attempting to find someone who could say that they had known the man to deal in narcotics or knew of some unknown witness who would state that Bora had

been the actual gunman on the night of the shooting. He found none. He was being the devil's advocate and an investigator at the same time, and he was finding the information unbalanced, tipping the scales of evidence decidedly in the favor of Kenneth Bora.

Davis continued his investigation even to the point of attending court cases in each of Smith County's three district courts, trying to view and evaluate the nature of its judges. It was at the conclusion of a case in Judge Glenn Phillips' court that Davis remained in his seat until the bailiff approached him, asking him to leave so the doors could be locked. The bailiff had to ask his question three times before Davis stirred from his thoughts as he stared at the Great Seal of the State of Texas.

"I'm gonna' have to lock up now," said the bailiff again. "You sure were lost in thought."

"Yeah," said Davis, stirring to his feet. He issued a slight smile. "Do you see that picture of justice? The grand lady blindfolded and holding the scales?"

The bailiff glanced toward the image. "Sure," he replied.

Davis broadened his smile. "Well, my friend," he began, "in Smith County, she's just a blind lady weighing fish."

It was now a time of anger. The principals within the drug bust were all afflicted with their own personal wrath, caused by an interaction between them that would remain without definition. Matthews and Ramsey were angry with the factions of Tyler that had so blatantly abandoned them and forced them, they claimed, into building a routine drug bust into the biggest bust in the history of East Texas. Tyler officials, meanwhile, were angry with the narcs for their desertion, and with the Dallas Morning News for their insinuations that all was not legitimate within the operation of the investigation. Bora was angry for obvious reasons, and his 120 peers victimized by the bust fostered their own rage, built upon the actions of the devious narcs. Defense attorneys were angered with the network of defenses built by the District Attorney's office that had thwarted them in their efforts to reveal to an unsuspecting public the true character of the infamous narcs. Hunter Brush's forces,

meanwhile, were angry with the operation of their department, just as was a large faction of the police department.

Yes, it was a time of anger, and it remained as the silent undercurrent of Tyler for many months. The rapport between agencies was strained to its limits, and there were whispered vows that vengeance would be found in some illusive future date. There were debts to be paid, and someday.... they promised. It was a time of anger, and the light of collective reason was blown out, creating the darkness of a vast, conspired, injustice.

JUSTICE: The quality of being righteous, rectitude. Impartiality, fairness. The quality of being right or correct. Sound reason; rightfulness, validity. Reward or penalty as deserved, just deserts. The use of authority and power to uphold what is right, just, or lawful. The personification of this, usually a blindfolded goddess holding scales and a sword.

Second College Edition Dictionary

THE SYSTEM

Kenneth Andrew Bora now sat in a cell measuring five-by-nine. It was shared with two other men. Winter had again settled upon the land and the days were filled with labor assignments within the fields or by working in the swampy marshes beyond the prison. In warmer months, up to ten men a day had been bitten by water moccasins in those swamps, but now the snakes had hibernated and only men were fit to work under such harsh conditions. Nature had insulated its favored species from such exposures, but within the system, prisoners were less than animals.

Earlier that day, a man had been stabbed by a fellow inmate in the corridor leading to the chow hall. Bora had seen the limp form lying in the pool of blood, but was no longer startled by such events.¹²³ It was simply the nature of his abode, and he could now callously look away, as did all other inmates, and turn his thoughts to what fare might be offered once he reached the serving tables.

It had been a typical day, his work detail moving into the swamps and cutting brush against the bitter wind. Sometimes, the collected brush was

123 In an official statement issued on July 23, 1984, a Texas State Prison official admitted that 10,000 stabbings had occurred within Texas' prison system during the first six months of that year!

burned by guards, and it was a welcome event to the inmate workers. If they were fortunate, they might capture the comfort of the blaze, easing the biting chill of the winter day. More often than not, however, they would be moved away from the fire to work in the damp marshes where their feet would become wet and would ache with a chilling pain. Once the day had ended, they would move back to the compound and would be required to remove all of their clothing for the routine "strip search." Regardless of the weather, the men would stand naked in the elements, awaiting the guards to examine the interior of their mouths, to extend their fingers through their hair, and then have them bend over to determine if any contraband had been concealed in their rectums. Once completed, they could don their clothing again and move orderly to their cells where their daily mail would typically be waiting.

As he leaned over for the inspection, reaching back to open his body for the humiliation of the rectum examination, Bora could catch the reflection of himself in the shiny door. He was thinner now. Thirty pounds lighter. He now walked with an involuntary limp, for working in the fields had aggravated an old football injury. His face was placid, reminding him of the zombies viewed in the motion pictures of his youth.

"Move on," commanded the guard.

Move on, thought Bora, obeying automatically, pulling his clothing over his aching shoulders. Move on toward what? Back to the dismal cell where his two cell partners would be groaning upon their bunks, lamenting the hardships of the day? Yet, he knew he would soon join them, responding to the throbbings of his own body, stretching and recoiling to the pain caused by the action. The dampness of the swamps contaminated the body, inflicting upon it hardships it was never meant to endure. His hands were yet curled to the form of the hoe he had used all day, and he found it difficult to button his shirt. It would require hours for his fingers to resume their normal form, straight and responsive. His toes would be another matter. Only the body warmth gathered beneath a blanket would restore motion to them, and he had long since learned to live with the agony of their constant, repetitious exposures to cold and moisture.

He had seen the older inmates. Prisoners who had worked the swamps for decades. Their backs were now bent perpetually, as if God had constructed them in that form. They had leaned on shovels, hoes and axes so

long that it was now their normal posture and they moved about the compound without expression, enduring the doldrum of existing one more day, as if there was a reason to be found in it.

By now, there was little about prison life that had escaped him. He had heard the screams by night of the handsome youngsters being gang raped in a cell. Screams ignored by officials, for it was a normal part of the routine. He had watched an inmate course a sharp razor blade down his wrist, watching silently as his life flowed meaninglessly upon the floor as a crimson testament to human despair. He had witnessed death in its many forms and had learned of the subtle torture of having men remain alive one more day.

He had gone to his cell and had gathered his mail. He would not be able to read it then. His hands could not open the envelope. His eyes would not be able to record the written words. His mind could not perceive the intent of the writer. The letters would have to wait until he had rested, until the bell for the evening meal had sounded, until there was the feeling of warmth flowing back into his body.

There was a period between the meal and the designated time adequately described as "lights out" that permitted the menial personal tasks to be completed. It was then that Bora would review the messages brought by the day's mail. He fixed his stare for a long moment upon the letter from Warren Heagy. The last time he had seen an envelope with the attorney's return address neatly printed in the corner, he had been excited and had pulled at the letter with an intense eagerness. Always, the envelopes had been sliced open by the censors, and Bora would never become accustomed to such invasions. This time, however, he was more cautious. He recalled the deep disappointment the last time. Heagy had informed him that the first motion for a new trial had been denied by District Judge Donald Carroll. It had been a warm, encouraging letter telling him that it was not "the end of the line." Even so, it had been painful. Heagy would continue the fight, he knew, and he had been informed later that a second motion had been filed. Surely this letter would be a report of Carroll's decision. Bora closed his eyes for a moment, fondling the letter as if it were something precious. He then mustered the courage to unfold it and review the typewritten page. Carroll had denied the second motion.

He did not know how long he had sat upon the edge of the bed with the letter dangling from his fingers. His thoughts were elsewhere.... somewhere within that world he was no longer certain really existed. A world where people did not consider freedom. A place where liberty was the norm and citizens flowed through the conduct of their days without consideration of a life where such freedom could ever be denied. They stopped at restaurants and consumed meals. They read newspapers over morning coffee. They drove automobiles and muttered about monthly payments and insurance rates as if they were truly important. They watched the growth of their children and sang hymns in churches. They watched television and popped popcorn. They pulled down covers at night and silently hoped that their mood would be equaled by their mate. They attended movies and sat on the quiet banks of a glass-surfaced lake. They pushed carts through the aisles of supermarkets and pinched produce in luxurious displays. They kissed goodbye and watched sunsets. They cried during sad movies because the content of their own lives held no cause for such emotion. They went to doctors and mailed birthday cards. They congratulated friends on the birth of a child, and made payments on mortuary plans. They voted in elections and made home movies. They signed report cards and issued stem warnings about next semester....

It was a world only dimly recalled within the recesses of his tormented mind, and the message falling to the floor from his fingers was a mandate that it was a world in which he was no longer welcome. It was another dimension, lingering somehow in the canyons of his mind that now considered the insane possibility that even it could have been some frightful illusion.

In the darkness, Bora reached to the small shelf containing his few possessions permitted by prison rules. His fingers touched the cold hardness of the razor blade and he held it to the faint light of the hall that filtered through the bars. He saw the glistening of the blade's edge and placed it against his wrist. It would be better this way, he told himself. Once done, there could be whatever allegations society wanted to make of it, and it wouldn't matter. It would be viewed as the final confession that Kenneth Bora had, indeed, been the perpetrator of all that had been charged against him, he knew. But that didn't matter, either. It would be

painful, but final. It would be significantly better than another day in the marshes or in moving through the summer's dust of the cotton fields. It would be the declaration that he would never again have to view the stable where the guards' horses were kept, or glance fearfully toward the kennels where hungry hounds were housed in the event of an escape. It would mean the end of the rotation of bells that regimented each day, and the conclusion of the pain and torment of wondering on what day a homemade knife would be plunged into his back.

He pressed the razor blade against his wrist and recalled the words of an inmate who claimed some expertise in such matters. Stick it in deep and slash upward, the man had said. Cut through all of the veins and the artery. Get it over quick. Run cold water on your wrist first.... it supposedly helped to numb the flesh from the intrusion of the blade. Then lay down and relax. Cover up with a blanket. Don't let a guard making his rounds discover you in time to rush you to the hospital. It was a methodical act, designed for its finality. It would be better to have ice cubes from the chow hall to place upon the wrist. But they would melt long before the lights out time. It was an act to be done privately. There was no reason to inform one's cell mates. There would then be the risk that one of them would consider the alerting of the guards as an act of benevolence. No, it was something that was too personal for discussion.

There would be no note, he concluded. Whatever he would write of his innocence would only be denied by the authorities later. They would operate within the fraternity of their status and conspire with the prison administration so that the message would never be known to the public anyway. No, there was no reason for a note.

In his fantasy, he imagined that he would commit the act. His blood would flow away and he would surrender to the dark curtain of death. In time, there would be the revelation of his innocence and a contrite public would then think of him in kinder terms. There would be the feelings of guilt and retribution. He would be vindicated. But he knew these were only fantasies and the realities of his life were written by Warren Heagy telling of the denial of the motion by Judge Carroll. He could concoct every illusion imaginable, but the fact remained that the courts were unwilling to hear his case again. His mind could not construct a dream of truth and have it counterfeited into a reality. He would have to live with

the knowledge of the court's denial, or die with the comfort of his innocence. It was as simple as that.

The corner of the blade was now pressing against his wrist and he tightened the muscles of his jaw, awaiting the initial pain of its first puncture. He knew in that moment that he had the strength and will to slash upward as the informed inmate had instructed. He had the determination to die, because he had so willed it. It would not be as difficult as he had imagined when contemplating it before.

His mind flowed over the people who would mourn his passing. His family would be shocked and bereaved. Barbara would feel some initial despair, but her course of betrayal had already been established. Warren Heagy would perhaps be outraged that his client had been driven to such ends by the wrongs inflicted by the system known as justice. But then, he reasoned, he was doing Heagy a favor, as well. The attorney would no longer have to spend his own money in Bora's behalf. He would be free to pursue other, more meaningful cases. Yes, it would be a favor to the generous attorney.

As the thought of Heagy coursed his mind, he could hear the distant echo of Heagy's voice calling to him. "Have they taken all of the fight out of you? That's what I have to know."

Bora sighed with the recollection. Yes, in that moment, they had conquered him. The fields beneath the blistering sun of summer had conquered him. The marshes had conquered him with their ally, the winter's wind. The guards had conquered him as their horses nipped at inmates moving too slowly. The inmate guards had conquered him with their arrogance and license to beat and outrage their peers. The system had conquered him with its courts that were blind to innocence and stored living human beings in places like Eastham.

Slowly, he lowered the blade and thought more deeply. He had never surrendered before, and the experience frightened him. Had he changed that much? Had he been reduced to a whimpering reminder of what he had once been? No, he resolved. There would be another appeal and another time for Judge Carroll to know of Kenneth Bora. He would wait a while longer. He would wait and restore his broken spirit. He would work with the motive of proving that the system was not greater than his belief in himself. He would live, and in that, there would always be hope.

"It's lights out, Bora," said the guard standing at the bars. "You know the rules. You're supposed to be under your blanket."

Bora smiled slightly. "Yessir," he replied and settled down to sleep. Shifting his weight to a posture of comfort, Bora thought again of the world beyond the gnarled wire of Eastham. Yes, that world existed and was still there. But it was Creig Matthews and Kim Ramsey who now shared the moment of love. It was Charles Clark enjoying a drink at the Petroleum Club. It was Hunter Brush having coffee at the Hot Biscuit. It was Willie Hardy reviewing the morning paper. Yes, that world was still there, and it was a world in need of vast changes. The only hope for its alteration was to be found in the dream that he would someday be proven innocent. Until then, his world would be within the purgatory of Eastham, but something within him brought a new confidence that he would know the time when he would see his antagonists again, and that would be worth living for.

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It was in May of 1980 that Bora's attorneys first attempted to gain a new trial. On the surface, their cause seemed to be filled with justification and there was the confidence that no responsible judge could deny their request. The defense team was elated. The issue was so timely that while Bora had been convicted by a jury, he had not yet been sentenced by the court.

Acting on a tip, Charles Tessmer had engaged the private investigator, Dennis Price to investigate possible jury misconduct. Price, with his usual tenacity, quickly uncovered John Huff, a neighbor of juror Burl Adair.

Huff would testify, Price indicated, that he had been engaged in conversation with Adair prior to the deadly assault trial of Bora, and that Adair had stated that he "would give the long-haired bastard life." Adair signed an affidavit stating that Adair later relented from this statement, but persisted with the comment that he would "give Bora at least 20 years."

Price was able to file his own affidavit with the defense attorneys and indicated that he had taken Huff's statement and had read it to Adair with Huff being present. Price swore that Adair told him, "I said a lot of things to Huff but that I was not always serious when I did so."

With the defendant readily available in the Smith County Jail, Carroll granted a hearing for the motion for a new trial for June 13, 1980.

John Huff was candid in his recollection of his discussions with the future juror, Burl Adair. He would remember that the conversation took place on November 11, 1979 because it was his brother's birthday. He

would detail the circumstances of the discussion, and was willing to swear to the court that the facts of the reported discussion represented the total truth.

Ann Atterberry of the Dallas Morning News was to best detail the content of the defense team's motion for a new trial:¹²⁴

". . . In the affidavit, Huff said when he, Adair and three other persons were discussing the Bora case on November 11, 1979, Adair said something like, 'you know that son of a bitch Bora? I wish I was on the jury in that trial, I'd give that long-haired son of a bitch life.'

"Huff said that when he told Adair he was 'crazy', Adair then said something like, 'Well, I'd give him at least 20 years.'

"The 27-year-old Huff said he frequently visited with the Adairs and specifically remembered the date of the conversation because November 11 was Huff's brother's birthday.

"Huff, a mechanic and welder, said he didn't think any more about the conversation until Adair got a notice for jury duty.

"When he came in that evening and was still on the panel, I couldn't believe it. I asked Mr. Adair if he had told them that he had already made up his mind that Bora was guilty and he said, 'No, but we have to go back tomorrow.'

"In the sworn statement, Huff said that following the trial he asked Adair why he had not said anything about his opinion and 'He told me that there were several others on the jury who felt the same way he did.

"Adair told Huff about 'two women who felt the same way he did from the beginning of the trial. . . .' Huff said in the affidavit.

"When asked if Adair didn't think he should have been disqualified from the jury, Huff said Adair replied, 'Everybody feels the same way - the guy is guilty. The only way I'd say he was not guilty is if he could prove

124 The Dallas Morning News, Saturday, May 31, 1980, "Bora Attorneys File For Retrial, Quote Juror."

to me that he didn't do it.'¹²⁵

"Adair refused to discuss the allegations made by Huff. . . :'

With Huff's revelations, Tessmer and Holcomb were convinced that a sound case could be built proving that at least one juror had preconceived ideas about Bora's guilt long before the trial took place, and that would clearly represent jury misconduct. Huff seemed to display all of the qualities of making an impressive witness, and there was even the chance that Adair could be broken on the stand. After all, he had admitted to Dennis Price that he had made a lot of statements to Huff, but wasn't always serious when he had done so. But the facts were clear enough to speak for themselves. Adair had voted for the conviction, and the recommendation of a 20-year sentence had come from the jury and matched exactly what Adair had reportedly stated he would give to ". . . that long-haired son of a bitch."

All there was to do now was the issuance of a subpoena to Huff and to wait until June 13th. In the meantime, everyone felt that they could be confident that a new trial would be forthcoming.

The mysterious workings of Smith County continued to plague Kenneth Andrew Bora. The subpoena for John Huff was duly filed with the Smith County Sheriffs Department, and was promptly lost within the shuffling of documents and was never served. Huff, meanwhile, was on probation for a driving while intoxicated conviction and had called his probation officer, Bill Malone, on June 6th. Huff inquired if he would be permitted to go to Colorado on a prolonged trip that would not bring him back to the Tyler area until late August, long after the Bora hearing.

Malone knew that Huff was an anticipated witness in the hearing, but only inquired of Huff if he had been served with a subpoena. Huff truthfully replied that he had not, and Malone promptly approved the Colorado trek!

On the day of the hearing, Tessmer and Holcomb appeared before the

125 Under Texas State law, the prosecution has the burden of proof to convince a jury that a defendant is guilty. The defendant is not required to prove his innocence.

court fully expecting their star witness to be in attendance. When he did not appear, they began inquiring of the sheriff's office whether or not the subpoena had been served. In their minds, Huff was in contempt of court, for he was defying a court order to make an appearance and give testimony. They were shocked with the news that the subpoena had never been serviced. Quickly, they appealed to Judge Donald Carroll for a continuance until Huff could be located and returned to Smith County, or until August when he would return as he had promised his probation officer.

Carroll's response was interesting. The defense attorneys knew how unreliable the sheriff's department was in issuing subpoenas and they should have had the foresight to have the document served by a constable. Carroll would delay the case no longer. The defense attorneys had had sufficient time to line up their witnesses. He charged that the defense attorneys displayed a "lack of diligence" in securing their witness.

Carroll promptly denied the motion and called Kenneth Bora before the bench for sentencing. The recommendation of the jury was accepted, and Bora was to be transferred to the Texas Department of Corrections at Huntsville and from there he would begin to serve a term of 20-years and be penalized with a fine in the amount of \$10,000.

The interesting portions of Carroll's decision was that he chose to chide the defense attorneys. These were the men who had "with diligence" prepared a subpoena as would any other attorney. They entrusted that document in the hands of the proper authority, as would any other attorney. They fully expected those officials to be responsible and serve the subpoena as the system provided, as would any other attorney. They expected their witness to be within the courtroom, as would any other attorney.

Carroll did not criticize the sheriff's department to any vast degree for the incompetence displayed that was so blatant that it was a critical factor in determining two decades of a human life. He did not criticize probation officer Bill Malone for failing to discuss the request for Huff to go to Colorado with the court. He did not demonstrate even fragments of human curiosity as to why a prime witness would suddenly have the need to be so far away when he knew he would be vital to the defense's case. He did not call the sheriff's department's warrant division representatives

before the court to determine under what circumstances the subpoena had been lost or misplaced. He did not display the normal curiosity as to why Bill Malone would have asked Huff about the subpoena (which gave ample evidence that Malone knew Huff was a pending witness) and yet did not notify any of the authorities about Huff's plans.

Carroll demonstrated none of these reactions that could be considered normal. Instead, he stated to reporters that, "It was obvious that they (the defense team) didn't want him (Huff) here. It cast some doubt on his credibility."

As Carroll was answering questions in his chambers, Kenneth Bora was embracing his wife and shaking hands with his brothers. Smith County deputies stood by, awaiting the moment to take him back to his cell. Reporters stood in an anxious knot, firing questions.

"How do you feel about going to prison?" called one of them.

Bora smiled slightly. "I'm going to make the best of everything," he stated. "If this can happen to me, then the guy without any money doesn't stand a chance. I feel sorry for them."

The first motion for a new trial had ended, and Kenneth Bora was ceremoniously assigned for the next "chain" to Huntsville.

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Kenneth Bora had been in prison longer than he wanted to remember when the official documents denying his motion for a new trial were delivered to him. It would be slightly more than a year before his attorneys would have another motion of such impact that Judge Carroll would agree to yet another hearing. His hopes again soaring, Bora was "dressed out" from the prison and transported back to the familiar surroundings of the Smith County jail. This time, he had played a pivotal role in the writ. He had conducted his own interviews with inmates at Eastham who had arrived there through the devious work of the Tyler narcs, Creig Matthews and Kim Ramsey. In the course of those discussions, Montie Clifton Braff and Michael D. Gray, both convicted from the infamous drug bust, had stated that another drug bust defendant, David Ashcraft, had actually pulled the trigger on Matthews on the night of September 15, 1979. Gray arranged for his wife, Sami, to also testify, for he alleged that

she had been witness to Ashcraft's boast that, "I finally got the son-of-a-bitch."

On May 21, 1981, Carroll convened a hearing in which Gray related his tale of Ashcraft's boast. Gray was not the most imposing or credible witness the defense could have wanted. While his revelation was sufficient to gain the hearing, he cracked under the intense questioning of Hunter Brush.

Brush claimed that Gray had been promised a job by Bora if he would give his testimony. It was revealed that both Gray and Bora were serving time at the Eastham Unit. Then, Brush struck with his most damning blow. He introduced into evidence a letter Gray had written to his wife, Sami, only a month before. The letter was read aloud to the court: "Ashcraft is the sorry bastard who put me down here."

It was revealed that Ashcraft had testified against Gray in a trial involving a 1979 Henderson County burglary, and that Gray was actually serving time for that offense.

The letter became more damning with the statement: "Ken has plenty of money, and there might be something special in it for me."

Heagy issued six objections to the admission of the letter into evidence, and Carroll overruled him six times.

Texas Ranger Stuart Dowell was called to the stand again. The sagacious Ranger testified that he believed David Ashcraft when he stated that he had not shot Creig Matthews or Kim Ramsey. He revealed that Ashcraft had taken and passed a polygraph to that effect, and added that Michael Gray had refused to submit to a polygraph examination.

The defense team was further thwarted by Carroll's posture on prime issues. The Dallas Morning News reported, "....When defense attorneys asked Gray who got Ashcraft involved in using narcotics, he said Matthews did. However, Carroll quickly sustained prosecutor Brush's objection to the question, leading courtroom observers to believe Carroll does not intend the evidentiary hearing to be an attack on Matthews, who no longer works for the Tyler Police Department."¹²⁶

While Gray's testimony was less than worthless, Heagy was not

126 The Dallas Morning News, Tuesday, June 23, 1981, "Bora Lawyers Report Effort To Taint Judge."

forsaking Bora's cause. There was the proverbial ace in the hole. Through the network of leaks from the police department, Heagy had learned of the secret taping of District Judge Galloway Calhoun. To this point, Tyler's officials had been successful in keeping the event secret from the probings of a host of attorneys. At least, those officials who had knowledge of the event. At first, Heagy would amend his petition to charge that "evidence was suppressed by the state," and that there had been "an active conspiracy" to hide the facts surrounding Bora's case.

To these allegations, Carroll responded with obvious anger. "I will not allow a fishing expedition, " he charged. "I want just facts, not broad generalities."

Even this did not deter the stubborn Heagy. He was angered with Carroll's response, and had made his anger obvious within the courtroom, but his writ of habeas corpus now included the charge that Galloway Calhoun, a District Judge of the State of Texas, had been secretly taped in a conversation by, and under the direction of, Tyler City Manager, Ed Wagoner and Tyler Chief of Police, Willie Hardy.

Now, Carroll mellowed noticeably. This was a revelation he found difficult to accept. Yet, the magnitude of the charge was such that he could not summarily discount it. It would have to be dealt with, and he knew of no other manner to handle it other than to agree to review the matter.

"There are certain things any judge will look at," he was to tell reporters, "and one of those is perjured testimony and another is official misconduct."

The taping of a judge under such circumstances would certainly imply official misconduct on its surface, he knew.

"If they (the defense attorneys) can tie this to Mr. Bora's case, then I may take some evidence."

In his chambers, Carroll again read the charge and shook his head in disbelief. It claimed that the secret taping was intended to discredit Judge Calhoun and ". . . was known to police officers, should have been known to prosecutors and was admissible based upon the issue of bias and intimidation of the witnesses who testified against Bora."

Yes, Carroll determined, there would have to be a full-scale evidentiary hearing.

At first, Carroll was liberal. He stated that he had "opened the door

for whatever they want to throw." On June 25th, however, Carroll was to renege on that posture, now restricting evidence that he considered as the "impeaching of witnesses" who had testified in the first trial because of Heagy's new charge of conspiracy.

Now, however, Heagy had the latitude that Tessmer had not enjoyed. He simply had more information. New information. He was able to resurrect Tyler policeman, Keith Gwaltney and have him testify about the events of the night of the shooting wherein Kim Ramsey had told Greg that she did not know who had shot him.

By this time, Phil Megason had passed his polygraph and had had the arson charges against him dismissed. With that cloud of doubt removed, Megason was now permitted to testify about the varying tales told by McGuire and Matthews about the shooting. He was able to relate that he had heard Assistant Chief Kenneth Findley state in Matthews' hospital room a statement of damning proportions. "Findley said what they did last night was the stupidest thing he'd ever seen, but it was alright, because Kim and Creig were going to swear Bora did the shooting."

Gwaltney was now able to relate that assistant DA, Chris Harrison had told him to go back on the street and not to tell anyone that he had been to the DA's office.

It was music to Heagy's ears.

Hunter Brush, however, was ready to do the prosecution's hatchet job. He questioned Gwaltney about his fiancée, Lisa Stone. Brush revealed that her brother, David Stone, had been convicted in Judge Carroll's court only weeks before for murder and had been sentenced to 99 years in the state prison.

Assistant DA, Jay Mills, grilled Phil Megason. Megason had testified that he had been assigned to the security detail to guard Kim Ramsey on September 16, 1979. Mills was to produce an official log from the police department indicating that Megason had been assigned as a dispatcher on that night. Mills fervently accused Megason of lying about the entire event.

"It was not a lie," responded Megason. "It was a mistake in my mind on the date."

Heagy revealed to the court that the testimony of David Pierce was not consistent with the statement he had given Tyler police officer Eddie

Clark on the day of the shooting. He released the information that Paula Green had given a statement indicating that she had seen a white Firebird leave the scene of the shooting, but had not been called as a witness by the state.

Heagy had also been successful in locating Mike Lusk. By this time, Lusk, the former fair-haired boy of the vice division, had fallen out of favor with his superiors and had been pressured to the point that he had resigned his position with the department. He was now working for an oilfield safety equipment firm, and was ready to tell at least part of the truth. Lusk testified that he had gathered a usable quantity of marijuana from the scene of the shooting and had assisted Lt. Doug Collard of the police department in preparing it for evidence. Collard had testified in the earlier trial that he had never seen any drugs at the scene.

Throughout the proceedings, Carroll had waited patiently for some reference to be made to the tape recording of Judge Calhoun. In his mind, this was one of the most critical portions of evidence contained within the writ, yet it had not been introduced and that fact distressed him. He could not force the introduction of the tapes into evidence, that would have to come from the defense attorneys. He could not advise them. He could not control the conduct of their case, yet the witnesses presented thus far had not given him the insights to the charges of Bora's attorneys as possibly would the secret tape recording.

There was no question by now that Carroll and Heagy were at odds. It was more than that. They simply did not like each other. They afforded one another the professional courtesies and nodded morning greetings, but there was the burning antagonism between them, and their confrontations within the court were unlike any that Carroll typically allowed. Still, he secretly wished that Heagy would introduce the tape into evidence, or call for it to be presented.

Carroll was no fool. He could perceive and understand Heagy's strategy. It was the attorney's hope that the suggestion of the taping would be enough to influence the court. Heagy had no way of knowing what the tape contained, so he was content to prove that the tape had been made, and hoped that such evidence would be sufficient without calling for the tape itself. Heagy had made a significant inroad by calling City Manager Ed Wagoner to the stand and Carroll had been mildly shocked to hear the

city official admit that he had secretly taped Calhoun in July of 1979. But that was not enough in Carroll's opinion. No matter what Heagy hoped, the tape would have to be introduced.

Carroll, like any man, had the dual ability to be wise and devious at the same time. In his arsenal of knowledge, he had a good grasp of understanding the nature of Warren Heagy. If there was any way to get Heagy to do something, it would be to convince him that by doing it, he would bring great displeasure upon District Judge Donald Carroll. "Judge," called a reporter as Carroll entered the courthouse one morning, "now that Ed Wagoner has admitted that he taped Judge Calhoun, is the tape itself going to be entered into evidence?"

Carroll glowed inside. "I would not dignify the tape by entering it into evidence," he responded.

As he had expected, Heagy had learned of the judge's comment and immediately called for the tape to be entered into evidence. If the judge was not going to enter it into evidence, Heagy would want to be armed with the refusal. Certainly, it could be utilized to allege the judge's bias in the case, and Heagy was pleased that Carroll would not "dignify the tape," for now it would not be heard and no potentially damning evidence would be revealed, but the refusal would remain as possible grounds for a later appeal. To Heagy's surprise, Carroll quickly ordered Tyler city officials to deliver the tape to the court. It would be entered into evidence. Carroll had expertly laid the trap, and he was pleased with himself that he had captured the shocked Heagy in it. Carroll would "dignify" the tape by entering it into evidence, and the reversal of his position may be viewed by some as weakness, but it was a risk well worth the rewards.

In the confines of his private chambers, Carroll listened to the tape intently. It was difficult to detect the voices and to understand what was being said. He could detect the tinkling of glasses and the ice within them. The conversation was low and muffled, for the quality of the tape was extremely poor. A long period of silence existed on the tape, and at last, Carroll turned off the machine, relieved that his old colleague, Galloway Calhoun, had not damaged himself by what he had heard there.

It should be recalled at this point earlier writing here that dealt with the long silence, indicating that, according to Mike Lusk, such silence was not possible. The recording equipment would simply not permit it. This

clearly suggests that Carroll was, in fact, listening to a *copy* of the tape that had been altered with the long silence, but that conjecture has already been revealed.

To Carroll's mind, he was reviewing the *original* tape, and that was enough to satisfy him.

On the morning of June 30, 1981, the Tyler Morning Telegraph carried a long article headed with, "No Evidence Of Conspiracy." Carroll was to rule that the tape had not assisted in the defense's claim of a conspiracy, and that he would rule later on the issue of a new trial for Bora. Meanwhile, Ken Bora would be returned to the Texas Department of Corrections.

"'No evidence of conspiracy' among Tyler City Manager Ed Wagoner, Police Chief Willie Hardy or District Attorney Hunter Brush to convict Ken Bora was presented by Bora's defense, Judge Donald Carroll ruled Monday night after four stormy days of testimony, but he did not rule on whether Bora will get a new trial," the article began.

"Judge Carroll ruled on the conspiracy charge after blasting the defense for 'bad faith' in asking him to disqualify himself, or step down, from hearing any more testimony. Defense Attorney Warren Heagy asked the judge to step down, citing what he called 'bias and prejudice' he charged was expressed by Judge Carroll in meetings in chambers and in court.

"Though Judge Carroll overruled the request, he dictated a response to the charges levied by Heagy into the record, calling the move by Heagy a 'last ditch effort to delay the proceedings.'

"The court does not feel called upon to recuse itself, regardless of how it feels counsel has abused the court in the presentation of evidence and will not allow this to bear on the obligation to determine issues that are raised that entitle Mr. Bora to such relief as the court might grant. Judge Carroll dictated after both state and defense rested their cases.

"Judge Carroll further rapped the defense for 'implying improper motives on Wagoner' for the secret taping of District Judge Galloway Calhoun in July or August of 1979, after an acquittal of a defendant in a drug case. Wagoner testified last week he did tape a conversation with Judge Calhoun with equipment obtained from and with the knowledge of Hardy.

"On the efforts to deal with the taping of Judge Calhoun, there was no idea of aid from that presented,' the judge continued. 'Judge Calhoun had nothing to do with the Bora case and there was never any showing of any improper motive in the taping.'

"After admitting the contents of the tapes, which he said were 75 percent unintelligible, into the record, despite his earlier threat not to 'dignify' its contents by making them official, Judge Carroll said 'there's not a thing in those tapes that Judge Calhoun had any views other than those shared by this court.'"¹²⁷

Still, the door had not closed completely. Carroll was willing to continue his deliberation on the matter of whether or not prosecutors had suppressed evidence during the course of Bora's trial. He had ruled that the testimony of Michael Grey had been "perjured" statements and ruled that the issue of David Ashcraft possibly being the true gunman would not be considered by the court. Now, the secondary claim of conspiracy by city officials was being discounted, and all that remained was the alleged suppression of evidence.

Heagy now faced the court alone. Bora had been returned to the confines of Eastham, and he did not like the scene about him. Of all of the allegations contained within the writ of habeas corpus and its amendments, the suppression charge was the most difficult to prove. The state had done an admittedly admirable job in attacking the allegations of the suppression charge, with Hunter Brush taking the stand himself. Brush related that there was absolutely no substance to the allegation that David Pierce had changed his testimony about being unable to identify the car he had seen on the night of the shooting. What had really happened was this, he explained. District Attorney investigators called again upon Pierce and talked to him, "persuading" him to "get involved." It was then that the young man was able to relate that he had, indeed, seen a dark-colored Camaro leaving the scene. He then stated that he knew what a Camaro looked like because he had anticipated purchasing one himself. Likewise, Brush admitted, Paula Green had visited the DA's office and had given a

127 It is interesting that Carroll should admit that the court shared Galloway Calhoun's ideas expressed within the content of the tape. It was during the taped conversation that Calhoun once referred to Bora as that "bad ass." Was the court so biased as to share this view?

statement indicating that she had seen a white Firebird on the night of the shooting. The same investigators, however, were able to determine that a resident of the mobile home park had a vehicle matching that description and concluded that this was the car that Paula Green had seen. It was then that Brush's office decided that Paula's testimony was not pertinent to the case, explained Brush. As it happened, Tyler policeman, Keith Gwaltney was later to overhear Kim Ramsey mention a white Firebird, said Brush in his testimony, but Kim was only relating what had been told to her by Paula Green. It was a tidy circle of testimony and evidence that wrapped the suppression issue into hopeless knots.

To some degree, the revelation of the secret taping of Judge Calhoun had stolen the thunder from the final decision from Carroll. The media now focused on the taping incident, and little else seemed important. Calhoun, usually not overly vocal, related to newsmen, "Someone was quoted in the paper as saying I was mad as hell, and that's correct - I am mad as hell about it."

Now, citizens were raising eyebrows and questioning the credibility of their city manager and the chief of police. If they would conspire against a district judge, could it be, then.... could it possibly be.... that the horror tales from some of the youthful drug offenders had been true? Dear God, could it be?

This time, there was no denying it. Willie Hardy had been called as a witness in the evidentiary hearing and had openly admitted his role in the taping. Hardy testified that Wagoner had asked him to get a body microphone and have it brought to the city manager's office. Hardy had complied.

"Ed Wagoner wanted to accurately record what transpired during the conversation," said Hardy.

Luckily for the police chief, he had not been present at the meeting with Calhoun, but his role left him tainted in a portion of the public's eye nonetheless.

For Ed Wagoner, it was a different matter. He was to testify before Judge Carroll knowing that the judge had already publicly declared that the taping was a "despicable" act. Meekly, Wagoner admitted that he had ordered and conducted the taping, and explained in rather fragile terms the circumstances leading to that decision. It was not Wagoner's brightest day.

A week later, the regularly scheduled meeting of the Tyler City Council was held and Mayor Robert Nall steered the members through the agenda, discussing items such as overtime pay for the city's cemetery workers to plans for a new senior citizen's center. There was no mention of the city manager's role in the clandestine taping.

Reporters had flocked to the council meeting in anticipation of hearing the fireworks surrounding the controversial event, and left sorely disappointed. Reporters asked city councilman, Andrew Melontree why he thought the subject had not arisen, and the black councilman smiled faintly. "I think you should ask the mayor why it wasn't discussed," he remarked bitterly.

Obediently, the reporters flocked to Mayor Nall as he emerged from the council chambers. The flamboyant Mayor who had an embroidered rose on the lapel of each of his sports coats, dismissed the subject as so much trivia. "I haven't seen anything that Ed Wagoner has done wrong," he stated, and then continued to blast the media for "stirring things up." Knowledgeable regulars to courthouse dramas found another point interesting, however. They displayed surprise and disgust that Charles Clark had not been called to testify about the tapes. Wise analysts concluded that Carroll was a close personal friend of Calhoun's and did not want there to be a confrontation within the courthouse. The validity of such a view is open to speculation, but it reigned as the common gossip among those with long experience as courtroom spectators.

As always, there were those events that were never known to the citizens of Smith County. Behind the scenes, the city's inner-circle was again angry. They were displeased with city councilman, Andrew Melontree for his vocal opposition to Wagoner and the issue of the taping. Something would have to be done to demonstrate to the verbose council man that his opposition was not "appreciated" by those in power.

Tyler Police Department public information officer, Preston Christian, was later to relate that he was called into Hardy's office and asked if he was not rather well acquainted with Andrew Melontree. Christian indicated that he knew the man, but the relationship was not much more than a nodding one. Hardy, he stated, then suggested that perhaps a call should be made to Melontree's employer, suggesting that perhaps not all was kosher with his employee. Maybe it might have some impact if his

employer was led to believe that the police department was investigating Melontree for some offense that they were not at liberty to divulge at the moment. Perhaps there was something that could be done to silence the councilman....

Christian did not respond, but merely nodded his understanding. By this time, he was becoming disenchanted with the department and its policies that were hidden behind official policies. He had been instructed to think about what effective action could be taken against Melontree, but instead, called the councilman and told him everything that had transpired.

Because of Christian's warning, Melontree was able to take action to protect himself. He confided in his employer, informing him of the plot that had been reported to him. He became cautious in his movements, and wary in the presence of officials. What he did not do, however, was to grow silent in his objections to the directions of the city under the leadership of Ed Wagoner. Melontree courageously continued his fight to seek truth and pursue justice.

Even as Texas Ranger Stuart Dowell had testified upon the stand, he knew that his words would not be the avenue toward justice. He told the truth in his statements before the court. He did not believe that David Ashcraft had been the gunman to shoot Creig Matthews. He did not believe that Michael Grey was telling the truth. The testimony hurt Bora's chances for a new trial, he knew, but he knew much more than that and he couldn't let anyone know about it.

It had been in April of 1981 when Tyler city policemen started calling Dowell, asking if they could speak to him privately. They were paranoid. They didn't want anyone to know of the meeting. Sometimes, it was held in coffee shops in distant towns. There were meetings in deep woods at the hours just past dusk. There were whispered conversations with a fearful eye glancing about for intruders. Always, the introduction was the same. "We don't want to go to the federal people. We don't know who to trust. Will you talk to us?"

Dowell did not talk.... but he listened a great deal. Within sixty days,

he had interviewed about ten police officers and some of the civilian workers from the police department. Other employees of the city, working for different departments and agencies, called upon him. He made his notes and would compare them by night. His gut was now satisfied. There was no rumbling now. No instinctive protest that something was wrong. The statements were inter-supportive, and he smiled with the knowledge that Colonel Jim Adams would be replacing Wilson Speir as the commander of the Department of Public Safety, the governing body of the Texas Rangers. Adams had barely settled into his new office when Dowell was besieging him with requests to review the facts surrounding conditions in Tyler, Texas. Adams, fortunately, was of the same school of thought as Dowell. Jurisdiction and policy were secondary to justice, and he abhorred any event representing a miscarriage of that justice. He called for the delivery of the file Dowell had assembled and dealt with it promptly, as he had promised.

Adams had a working knowledge of what had transpired in Tyler. He had read newspaper accounts and had seen the story break on television. Like most citizens, however, his knowledge had been limited to the fact that there had been a massive drug bust and the narc producing the huge number of defendants had been subsequently shot. The story had been neat and simple, not unlike thousands of others he had encountered in his long career in law enforcement. Now, however, he was reading of the transgressions of that narc, and of the support given to him by officials of the city. He had thought himself hardened to almost any news, but Dowell's report brought rage to his sense of right, and he was tempted to call the burly Ranger to inquire simply if Dowell was certain of his facts. In a second thought, he did not call, for he knew Dowell to be a man of impeachable exactitude. Of course Dowell was certain of his facts, or else the file would not be before him.

It was two days later when he finally called Dowell and his message was brief and simple. "Stuart, I'm calling for a meeting to deal with the file you sent me. I've called for the Smith County District Attorney, U.S. Attorney John Hannah, FBI agents Harrell and Meese, and now I'm saying that I want you to be there too."

Dowell beamed with delight. "You name the day," he responded.

"I'll fly into Tyler," Adams informed him. "I want this whole business

to be kept under wraps. I don't want an army of media people there. I've told everyone that. Let's make this a top level secret meeting. But I'll tell you now that I'm going to call for a federal investigation into this business. I don't think you'd want to miss that."

"No-sir-ree," replied Dowell happily. "That is something I sure wouldn't want to miss."

Dowell glanced at the calendar on his desk, poising his pencil to circle the date of the meeting. It was May, 1981. Twenty months had passed since Creig Matthews had been shot.

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There are no secrets in Tyler. There may be things that people do not speak about, but that does not mean that it is not known to all. So it was with the "secret" meeting. Upon his arrival at Tyler's Pounds Field, Colonel Adams was met by a host of newsmen, all clamoring to know the purpose of his visit. The knowledge of the media people enraged Adams. He knew the leak had to come from one of the people he had contacted to attend the meeting, and both he and Dowell felt certain they could identify which one it had been.

The meeting began with Adams' question of how the media had learned of the conference, but no one claimed to have any idea of how such a thing could have happened. "Well," he stated, "the fact that someone has told them about this meeting should give some evidence to some of the problems existing here in Tyler."

Methodically, the state's chief law enforcement officer began to review the contents of Dowell's file. From time to time, he would glance upward to seek a reaction on the faces of those about him. None seemed surprised with the report, and that distressed him all the more. Statements of lawmen contained within the file were damning indictments against the city's administration, and particularly within the police department. There were indications that the infamous drug bust had not been conducted within the borders of the law. There were allegations of drug usage by the narcotics officers. There were serious questions concerning the shooting of the narc and the guilt of the man now in prison for that offense. In short, there appeared to be very little taking place within the city that had not

held some hint of corruption.

Adams turned to agents Lloyd Harrell and Raymond Meese. "I'm going to recommend that your agency investigate this matter, or at least recommend it to the Justice Department's civil rights division."

Harrell and Meese were diplomatic. They would submit his recommendation to their superiors and attempt to get some reaction from them as quickly as possible. It was the typical bureaucratic answer, and Adams didn't like it.

"I suggest you do that," he said coldly.

It was a nervous atmosphere for the FBI agents. They were in the meeting with U.S. Attorney John Hannah. It would be unwise to openly agree to a probe unless Hannah endorsed it. That's simply the way the system works.

"What do you have to say, Mr. Hannah?" asked Adams.

Hannah nodded quickly. "I'll join your recommendation," he responded.

Those within the meeting representing the federal government were at odds with the events of the day. The tales of improprieties within Smith County had plagued them for many months. As early as December of 1979, news reports were circulated in major newspapers indicating that the Justice Department was investigating the drug bust.¹²⁸ Hannah had been the one to deny the reports and was now in the awkward position of recalling some of his statements. Reports of an investigation, he had said, were ". . . unfair to a law enforcement agency." He had added that if the report were true and there was a probe underway, it would be ". . . not really a very big story as I see it, because we get those kinds of allegations almost every day."

The same was true of the FBI agents. They had been asked to interview Willie Hardy as early as June or July of 1979 in response to complaints issued by relatives of defendant Steve McGill. Throughout the subsequent months, they had heard tales of corruption within Tyler's systems, but had dismissed them as being "unsubstantial." Even Tyler police officers had contacted the offices of the FBI, but they too, were lost within the slow grinding of the federal bureaucracy.

128 The Dallas Morning News, December 9, 1979, "Narc Unit In Tyler Probed."

Now, there was the mandate for a federal probe into all matters surrounding the drug bust. Adams was not simply a disgruntled relative of a defendant, he was a top official within the state's political hierarchy with access to the ear of the governor. Yes, there would be an investigation and it would have to be a good one. Adams could scrutinize a probe with an intuitive awareness of its quality. It would not be the same as conducting an inquiry for some obscure state representative. No, Adams was formidable, and the agents had their work cut out for them.

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Within the files of the Dallas FBI office rested a report filed by an agent who had left the employ of the agency not long after it had been filed. It revealed that a Tyler police officer had requested a secret meeting with the agent to be held in Tyler, and during the course of that interview, the officer had related many of the horror stories of the conduct of the police department. The report had been held as inactive since the day it was filed. All that was now of significance was the name of the officer, for perhaps he would be a source of information in the pending investigation. The report listed him as the Tyler Police Department's Public Information Officer, Preston Christian.

Christian had called for the meeting during one of the many low points of his career with the department. As the Public Information Officer, he was asked to perform many duties that he found abrasive to his conscience. It was a fact of life that he needed the job, and this alone drove him to comply with such requests but he always suffered through long periods of guilt afterward. His surrender to the commands of his superiors brought to him a sense of self-disgust, and he endured long periods in which he truly did not like himself for all he had done. By many standards, what Christian had truly done was not of great significance. But to his standards, each act was a tort against his inner-knowledge of good and evil, and he was not on the side where the light was shining. The Melontree incident was but one of the incidents where Christian found his feelings toward the department and its administration altering from disenchantment to a near hatred. He did not like what he was asked to do and strongly objected to his superior's attitude of confidence that

whatever they wanted done would have to be done out of protocol and obedience.

Even as the FBI agents began gathering the data needed for their probe, Christian was again suffering through another assignment. As always, the leaks throughout Smith County's system had informed everyone in power that a federal investigation was imminent. It was time to "clean up the act." One of the ways to do so was contrived by City Manager Ed Wagoner. It was Wagoner's theory that problems truly existed within the department and it was now public knowledge that such unrest was prevalent. The best way to deal with that situation, he concluded, was to simply admit it with certain restraints. It would have to be done as a public relations program spiced with the flavoring of a devious nature. Wagoner decided that a committee would be formed that would have members of such high esteem that no one would dispute their findings. These committee members would open their doors to any police officer having a complaint and would listen to such laments with the assurance that the name of their informant would never be noted or included in any subsequent report. Anonymity was assured. The committee members would then submit a summary of all that they had heard and Wagoner himself would review the reports, compile a master fact-finding report, and issue specific corrective recommendations. It was a way of saying to the public, "Look, we have problems and we've turned to the people you respect most to help us solve them." Who could possibly argue with that?

Preston Christian was now assigned the task of writing the final report from the accumulated data provided by the committee members. He was especially distressed because of the committeemen and who they were. His instructions were to clearly falsify the findings and to water down the nature of the officers' complaints. Of course, throw in a compliment to the department from time to time. They couldn't have all of the officers complaining.

"In June 1981," began Christian, "the City Manager appointed a three member committee to review concerns being expressed regarding the internal management of the Tyler Police Department. The charge given the committee was to hear any issue concerning departmental management whether positive or negative. A summary report was requested from each member outlining the results of conversation and identifying any

recommendations for correcting identified problems. No names were written into any of the committee's reports.

"The committee consisted of Reverend Msgr. Milam J. Joseph, Pastor of the Immaculate Conception Church, Dr. William Shamburger, Pastor of First Baptist Church and Terry L. Childers, Assistant City Manager.

Each member of the committee met separately¹²⁹ with employees that contacted them individually.

"A total of 32 uniform officers contacted committee members. In addition 5 civilian employees visited with committee members. There were 2 anonymous phone calls...."

The report continued to relate areas of concern reported by those requesting interviews with the committee members. On the surface, it appeared that the committee had functioned well and that the response had been impressive. After all, if the 32 officers had all come from the Tyler Police Department¹³⁰ it would mean that almost one-third of the entire-force had responded!

The report was to contain certain plaudits to the department and its administration. "Personal comments concerning the department also included the Chief is a fair and honest man," and "The administration worked together well as a team and fostered teamwork throughout the department." In contrast, the complaints appeared to be rather mild. Poor communication between line officers and their superiors, low morale within the department, unfair discipline measures, and even the issue of officers wearing their hats while outside of the patrol car as ordered by the department's highest echelon.

In reviewing the report, it has all of the trademarks of an elaborate hoax. It was released to the media and published and broadcast for common consumption. Even so, it contained little of the truth. This was not the fault of the members of the committee, for they were victimized by the hoax as much as any citizen on the streets of Smith County.

The official report summarizing the work of the committee clearly

129 Emphasis added by the author and did not appear within Christian's report.

130 Because of the confidentiality afforded each lawman interviewed, it is unknown unto this day whether or not all of the officers responding came from the Tyler Police Department or if some of them were deputies from the Smith County Sheriffs Department.

stated that a total of 37 people were interviewed. Yet, three years after the report had been published, this author contacted Reverend Monsignor Joseph and asked how many people he had actually interviewed. He responded quickly. "Thirteen." Dr. William Shamburger was then approached and asked the same question. He, too, was willing to answer the query and stated that he had interviewed five people. It is known that the Assistant City Manager, Terry Childers, complained during the later days of the committee's life that he had been contacted by no one. This is reasonable. What officer would want to be interviewed by a man who had his office next door to Ed Wagoner's? In all, only eighteen persons had been interviewed, and the report was falsified to promote the idea that the effort had been a success and that the response was significant enough to make the effort worthwhile.

The committee members, meanwhile - Father Joseph, Dr. Shamburger, and Terry Childers - were never to meet after their final reports had been filed and compare notes. Father Joseph had interviewed 13 people and believed that the other 24 persons had been interviewed by Shamburger and Childers. Shamburger interviewed five persons, and spent the preceding years in the belief that the other 32 persons had been seen by Father Joseph and Childers. Childers had seen no one, but was convinced that Father Joseph and Dr. Shamburger had been very busy during that time.

While the former committee members would not break their pledge not to reveal names, at least one was to relate with disgust that the issues he had heard from officers were far more explicit than any he later saw in the final report issued by the pen of Preston Christian. He had not heard any officer speak of the glowing honor of the Chief or the teamwork of the department's administrators!

The only person who could resolve the question of the report's basic validity was Christian himself. After hearing the question, he was to lower his head and shake it sadly. "No," he answered softly. "That was just more of Hardy's crap."

At last, Christian was to have his fill with the department and its policies of intrigue that lurked behind the guise of official policies. On one morning, he walked into Hardy's office and announced that he would have his personal things out of his desk and locker by three o'clock that

afternoon. He wanted nothing more to do with the Tyler Police Department. That night, Christian visited a friend who owned a gas station. Christian was not a drinking man. He disliked drunks. But on this night, he would hide in the bay of the station, avoiding all public contact, and get rip-roaring drunk.

If the impending threat of a federal probe was not enough to disrupt the officials within the department, the unrest of the officers certainly was. It was now apparent to a large number of the men that a form of persecution was being inflicted upon them and that they had little defense against it under the present system. In many long, angry meetings, they reviewed the actions taken against some of the officers and found them to be grossly unfair. Joe Dilman had been falsely charged with theft and had suffered through a long battle before he proved his innocence and had the Civil Service authorities order him back to work with all back pay granted. When Mike Lusk had fallen from favor, he had been subsequently charged with a theft from the vice division vault and had to undergo polygraphs before proving his innocence. Other officers had been driven from the department by a systematic attack personified by discipline reports dealing with such major issues as a scrap of paper left in a squad car. Lt. Ron Scott had been driven from the ranks of the department by this paper insurrection. Phil Megason had been falsely charged with arson and had gone the same route of Lusk, finally proving his innocence by a polygraph examination. The list went on and on.

It was apparent that some form of action had to be taken. The men were not willing to walk out en masse. The city needed protection and they were responsible officers. As dismal as the portrait of the police department might seem at this juncture, there existed upon the rolls of the department a long list of honorable men who would have been a credit to any police department. They went about their business diligently and fairly and personally abhorred all that they had seen that blemished their profession. If the reputation of the department was to be salvaged and if the personnel was to have any protection from the onslaughts of the administration, the men would have to be organized. They would

have to stand together in opposition to their superiors and be steadfast in their unity. When one of them was wronged, the rest would rally to his defense either in protest to the treatment given him, or by assisting in the hiring of legal counsel to represent him. It was the budding of an idea duplicating that which founded the first unions of the nation, and the men pledged their solidarity. The organization would be called the Tyler Patrolman's Association and the administration would have to accept it, for from its inception, it had enough members to wield an influence of astounding proportions.

The declaration of the organization was delivered to Hardy by its newly elected president, Tyler policeman Oren Hale. Hale was a vocal man with high intelligence. He had a good feel for right and wrong and the mechanisms by which either could be enacted. He pledged to his members that he would represent them fearlessly, and he kept that promise. Among his first demands was that the organization would be supported by dues voluntarily submitted by its members. As any other organization, the Tyler Patrolman's Association wanted the dues to be deducted from their paychecks. After all, they were giving to such organizations as the United Way, and certainly it would be no problem to have their dues deducted in the same manner.

Hardy bitterly complied with the existence of the association. He had no choice. He could not deny that it existed when a large percentage of his force declared to be members. With it, however, came the subtle threat. No longer would the officers be victimized as individuals. Now, they were unified within a cause, and that was dangerous on any level. If he could not halt its forming and growth, however, its operation could be seriously thwarted. The deduction of dues would be an issue that would have to be voted on by the city council. With the alliance with Wagoner, this would be very difficult for the organization to achieve.

The association hired ex-prosecutor Randy Gilbert as its counsel and he appeared before the council to represent the request of the officers. Gilbert had operated within the system as an Assistant District Attorney and knew the manipulations that could be expected. It was little difference from the days as a prosecutor when he had disagreed with the conduct of the DA's office and had been cooperative with defense attorneys. In fact, it had been Gilbert that one officer had turned to when he

felt the need to finally reveal all that was happening within the PD. A.D. Etheridge had asked Gilbert what could be done about the corruption within the department and Gilbert had arranged for the officer to meet privately with U.S. Attorney John Hannah. Knowing Tyler and the system, Gilbert was certain that Hunter Brush would know of his role in this meeting as soon as it had started, but by this time, he no longer cared. He had all he could take of the DA's office and the actions of Tyler's officials.

Gilbert was attacked by Mayor Robert Nall during the council hearing as Nall accused him of attempting to circumvent the City Manager in his dealings with the council. Gilbert denied the charge, but also inherited the violent wrath of Wagoner himself. It was obvious that the issue of a police association was a thorn in both men's sides. Wagoner led the fight in having the council reject the request for payroll deduction of the association's dues and followed Gilbert into the corridors of City Hall where he continued his tirade while sticking a finger into Gilbert's chest. Newsmen were aghast with the sight.

"Ed," said Gilbert softly, feeling Wagoner's finger still poking into his chest. "Do you know what you're doing? You're making a total ass of yourself in front of the newsmen."

Wagoner appeared to suddenly realize where he was and what he was doing and his face turned a noticeable crimson, half from embarrassment and half from anger.

Regardless of the actions of the city council,¹³¹ the existence of the Tyler Patrolman's Association could not be halted. It continued to function as the bulwark of defense against the wrongs perpetrated by administrators that had become almost historic to its halls. It successfully argued many issues in behalf of individual members and recoiled in anger when attempts were made to harm or discredit any of its members.

It was not long after the organization took roots that its president, Oren Hale, was disciplined for the use of excessive force against a suspect at the scene of a burglary. The association's membership went quickly and silently to work. The suspect was not complaining, rather, it was a com-

131 It would be unfair not to mention that Tyler city councilmen Andrew Melontree and Jerry Russell voted against the city's policy that would deny the association its request.

plaint by a fellow officer of higher rank. The owner of the establishment being burglarized had witnessed the arrest and stated that he saw no excessive force. The association filed its report and pledged its support to its president. Within days, the disciplinary action was dropped. It was the final concession that the Tyler Patrolman's Association, now having 67 of the department's 86 officers as members, was a reality.

No longer did the police department's senior officers have the blanket authority or ability to take actions against antagonists within the department in the name of retribution. Now, there was a monitor. An effective, powerful monitor to every action and it was a group representing the vast majority of the department and the inner-circle had slowly diminished to a pitiful minority clinging to the illusion of its might.

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Mrs. Kimberly Matthews had shared many moments with her husband laughing about the incompetence of lawmen in Smith County. Creig was in much better condition now, receiving funds from the Texas Municipal Retirement Fund and Social Security. His wounds still caused him problems, but there was no question that he was improving daily and gaining strength. Still, tests had revealed that he had an 87 pound grip in his good hand and only a seven pound grip in the hand where the blast had ripped away his lower arm tissue. Life was better now, and they could laugh at some of the things that had been tragic only months before.

Among their prime concerns after the shooting was that there was a briefcase hidden beneath the sofa containing a sizable amount of pot. In the briefcase was a business card identifying Creig Matthews as an officer of the Tyler Police Department's vice division. It had been used to separate the seeds from the marijuana. It had never been discovered by the city or council officials. Now, they could laugh about it.

In their minds, the images of Hardy and Brush were but caricatures of humorous identities lurking somewhere in their darkened pasts. The resurrection of such men always brought laughter, for to Matthews and his wife, they were the objects of some ridiculous charade.

They had traveled a strange course from the distant days when they were masquerading through Smith County as free-wheeling users

endeared to their peers. They had enjoyed the luxury of Perot's protection and the millionaire's benevolence had been instrumental in Creig regaining his health. They had endured the trials and the demands left upon them by the officials of Tyler. Once their commitments had been fulfilled, however, they had faded into the background. They were certain that their names were still bantered about by Smith Countians, but for the most part, they would remain as part of the area's inglorious history.... a chapter that no one would want to recount. That was fine with them. Smith County may have been finished with them, but not nearly as much as they were finished with Smith County.

Still, there were occasional reminders of the antagonism of the city. Creig had a claim pending with the Labor Office of Compensation, and it was proceeding slowly enough that they wondered if Hardy was not interfering somehow. Hardy had fought Creig's retirement, and the former nars knew that the ancient war between them and Tyler would never truly be ended.

For a while after leaving Tyler, the couple had resided in the Dallas area where they continued to enjoy Perot's umbrella of aid. Kim worked as a bailiff in a Collin County court for a while, but she was not happy with the position. She had seen enough of courts, and yearned for something new and different. Surely their backgrounds would qualify them for something other than groveling in the sewers of undercover work. Even that would be difficult to obtain now, for their reputations had spread statewide and they were tainted in many lawmen's eyes. Certainly, they would never receive a recommendation from Hardy. The Tyler Chief had so divorced himself from any association with them that he had mailed Kim's "Rookie of the Year" plaque to her in Plano with Creig's flesh and blood still splattered on it from the shotgun blast. No, they could not count on Hardy for a recommendation.

The tendency was to think in terms of what "they" could do, but they both knew they were speaking only of Kim. Creig would probably never be in condition to play a role in law enforcement again. But that didn't matter. They had both decided that they would never try to wear a badge again as long as they lived.

One thing was appealing to Kim, however. She enjoyed the regimentation of police work. She had excelled in police academies, finishing fifth

in physical agility in a field dominated by men. On the pistol range, she had finished a sterling third. If such abilities would never be utilized by a police department again, there must be an agency needing such skills. Yes, she concluded, she would be a good candidate in some branch of the armed forces. She had the academic background. She had the most basic abilities and had pre-training that would make her a prime prospect for any goal a branch of the armed services might produce. Plus, she would be fulfilling herself, utilizing all of the skills she had worked so hard to obtain. She wanted to join the service, and she discussed her dream with Creig.

The United States Air Force was eager to enlist a candidate of the quality of Kim Matthews. She had the perfect background. She was a fine physical specimen and held incredible skills. The assignment officers would have no problem placing her. Within hours, she had been approved and arrangements were made for the time and date she would report to Lackland Air Force Base in San Antonio, Texas for basic training.

The time passed slowly. Kim was engaged in her mandatory training program while Creig lounged luxuriously awaiting the time when she would be free to join him. Later, when she had an assignment, they could live as man and wife, but for the moment, life was difficult, but bearable. They had been through so much that little could disturb them now.

The weeks stretched into months and Kim was assigned to a linguist school to study Russian. It does not require a fertile imagination to speculate what the U.S. Government had in store for Kim Matthews. A woman with physical ability and weapon skills combined with a high intellect and obvious courage. To place her in a language school to study the Russian language bears obvious connotations. Her future was being established, and the tools to exploit that future were being honed by government authorities.

It was during this period that life seemed to gain a stability for the Matthews'. Kim was enjoying her work and Creig found solitude to be comforting after his turbulent days in police work. When together, they were closer, apparently because of the long periods of separation. Yes, life was almost pleasant now.

From time to time, however, they would hear from their sources in Smith County. They could not avoid having left a path behind them. It

was not impossible to track them to San Antonio and their new lives. Thus, they would receive tidbits of information, and it was not always pleasant. A federal investigation was underway. FBI agents had contacted Mike Lusk. Lusk had perjured himself in the Bora trials by stating that he had seen Bora carrying a gun in a shoulder holster upon occasions. He had told other lies. Kim and Creig were confident that Lusk would not be a threat. He certainly wouldn't "turn over" now and endanger himself. As long as he didn't turn snitch, they would be safe. But the feds were asking questions of other people now. Tim McGuire had been contacted. The former narcs were equally confident that Tim would be "cool." So far, there was nothing happening that would cause them undue alarm, except that they could count on a visit by FBI agents, and the thought of it distressed them deeply.

They considered the visit that was certainly forthcoming and decided that all that could be done is play dumb and try to see what the agents knew. But they also agreed that it would look much better for them if they contacted the FBI and told them that they had learned that they were wanted for an interview. Such cooperation is always looked upon warmly by the feds.

Within days, Kim's mother called to tell her that the FBI was looking for them to schedule an interview. It was now time to put their program into action. They called FBI agent Larry Tongate and gave him their address and established an agreeable time for the interview to take place. Certainly the interview should not take place unless some legal counsel was available. On that they both agreed. But attorneys cost money and the Matthews were now a simple couple living on a restricted budget assisted only the the forty percent reduction gained by purchasing food at the base's commissary. No, they could not afford to hire an attorney. The Matthews placed a call to Ed Wagoner, informing him of the pending interrogation and stating that they felt they had a need for an attorney. Wagoner, in typical form, referred them to Charles Clark.

Clark arranged for San Antonio attorney, Larry Linnartz to represent Creig and Kim during the interview. At this point, one must wonder how Linnartz was to be paid for his services. After all, Kim and Creig were no longer employees of the city and Creig's medical expenses during those prior months had been paid by H. Ross Perot, so far had their relationship

with city officials been diminished. But Kim was to later testify, "... the City of Tyler provided us with a lawyer by the name of Larry Linnartz." From that, there is the clear indication that Linnartz had as his client, not Kim and Creig, rather, the City of Tyler. A strange development, indeed. A city that had been willing for a distant benefactor to assume Creig's medical expenses now saw fit to pay the fees of an attorney to represent them during an interrogation by the FBI. It appears from this that city officials had little concern for Creig's health, but certainly didn't want him unrepresented during an interview that could have shed doubts upon the character of those involved in city administration.

Now, however, the groundwork had been laid. The Matthews would meet in the offices of Larry Linnartz and face the FBI agents and hold fast to everything they had said in all prior appearances within the courts. By the content of the fed's questions, they would be able to determine how much the agents knew, or thought they knew.

It was the narc's game all over again. Subtle and cunning, always alert for weaknesses, always ready to respond with a calm professional ease. Not even the FBI could cope with the former narc team, Kim and Creig decided. After all, they were the best damned narcs in the state.

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The meeting in Linnartz's office was not as casual as they had expected. Ray Meese and Lloyd Harrell were somber and coldly polite. There were none of the preliminary comments that would put everyone at ease. None of the passing remarks about the "old days" when their paths had crossed in Smith County. No, the agents went quickly about their business, outlining the conditions by which the interview would be conducted. Kim and Creig would be interviewed separately with Linnartz in attendance. It would not be an over-the-conference-table forum with everyone present. That alarmed the narcs. Now, there would not be the confidence of an alliance. They would not have the insurance of each other's presence. They would be facing their interrogators alone, one-on-one. They didn't like it, but that's the way it would have to be. Meese and Harrell were adamant about it.

A furtive glance passed between Kim and Creig as the agents went

into Linnartz's conference room to prepare for the interviews. They knew that the time spent alone would be agonizing, wondering what was transpiring in the other room as their partner endured the onslaught of the agents. They would have to be cool now, more alert and cautious than ever. This was not the circus of a Smith County courtroom with prosecutors dimly aware of their skills in evading issues. These were agents of the federal government, and they knew them to be as cunning and skilled as they had ever thought themselves to be.

It had been hoped by the former narcs that the content of the meeting would be but a "fishing expedition" on the part of the government. It was their wish that the questions would be disjointed, probing always for some threat of knowledge not yet possessed by the FBI. From that, they could determine that the feds really didn't have much to go on. They were probably just responding to some charge of civil rights violations from one of the defendants - probably the relatives of Steve McGill.¹³² If that were the case, they could stick to their old stories and feel confident that nothing would come of it. The feds were known to give lip service to many such complaints.

Inside of the conference room, however, this was not the case. As they took their turns, Kim and Creig came to know that the agents were far more aware than they had ever thought them to be. Their questions dealt with drug usage during the drug bust. Had they used drugs themselves during the time they were trying to make cases on the defendants? Had the narcs ever used drugs, even in times prior to the drug investigation?¹³³ Had they ever shot or snorted cocaine? Had they ever drank Demerol? Had they ever put Demerol in a Coca Cola or any other form of drink? Had they ever snorted or taken speed? Did they have any information or other knowledge concerning the taping of Texas District Judge Galloway

132 Relatives of Steve McGill had been pleading with the Justice Department to look into the conviction of their kin. At one point, Ted Kennedy had personally responded to them with a message that the Justice Department could not consider the matter, but he had forwarded it to other authorities.

133 During the interview, Kim responded that she had used marijuana on four occasions while she was a student in high school. That, she claimed, was the limit of her experience with drugs.

Calhoun? Had they participated in the break-in of Dr. Allen's office? Were they under undue or constant pressure from Willie Hardy to make cases?

Once the questions had been completed, the narcs were permitted to be together in the conference room as the agents completed their notes that would support the evidence gained on the cassette now turning still within the recorder. Meese tapped a pencil nervously against a pad of paper and raised his eyes with an expression of confidence.

"Is there anything you'd like to add to this tape?" he inquired. "Anything at all?"

"No, sir," they responded.

"Is there anything you'd like to say about the burning of your car or the use of drugs while you were in Tyler?"

"No, sir."

"Is there anything you'd like to say about the delivery of cocaine by Kenneth Bora?"

"No, sir."

"Are there any facts about the shooting that you'd like to reveal at this time?"

"No, sir."

"Is there anything about your relationship with Willie Hardy that you'd like to discuss at this time?"

"No, sir."

Meese and Harrell shared a glance as Harrell pushed the button on the recorder and then punched the rewind button. Meese stared into the narc's eyes coldly.

"Well, I'm going to tell you how it is," he began. "Right now, the state could file arson charges against you on the burning of the car. They have enough evidence to do that. The fact that you collected insurance on it and the insurance company was out of the State of Texas makes it a federal matter, so we could file the charges ourselves, and we certainly will. I want you both to know that. No matter what the state does, we have you on a charge of arson. No matter what else happens, you can count on being charged with that."

Kim and Creig moved nervously in their chairs.

"Do you have anything to tell us about that now?" asked Meese.

"No, sir," they responded with glances toward Linnartz.

"At the same time," continued Meese, "we're looking into all the other matters we talked about on the tape. The drugs, the break-in at the doctor's office, if all of the charges in the bust were legitimate, if Hardy played a role in this whole business - everything. We have a witness who tells us that a lot of things went on between you and Hardy. That the bust wasn't as clean as everyone would have us believe. He says that both of you were dirty during the drug bust and that you admitted it to Hardy."

The narcs remained silent, their eyes focused coldly upon the agent's face.

"Are you sure you have nothing to add to the interview?" asked Meese.

Kim smiled warmly. "Yes, sir, we're sure."

Meese sighed deeply, shoving his notes into a briefcase. "Okay, then," he stated. "We'll be heading back to Tyler now. You can count on hearing from us again."

Kim and Creig issued their farewells with handshakes and words of appreciation for the agents' visit. They offered comments amounting to their desire to see everything cleared up. They wanted the facts set straight every bit as much as the agents. They flashed smiles - nervous smiles that did not fool Meese and Harrell a bit.

Once the door had closed and the agents had left, the narcs turned to Linnartz with expressions of doubt.

"Don't worry," advised Linnartz. "They don't have a case on you. You're going to be alright. Just don't talk to them again."

"Don't talk to them again?" asked Kim incredulously.

"That's right," smiled Linnartz. "They don't have anything on you." The attorney turned to flick off the lights in the conference room and Kim shot a glance toward Creig. "Like hell they don't," she whispered.

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It was night. Creig stared at the patterns of the ceiling in the half-dark, listening to the breathing of Kim beside him. She was awake, too. They had talked for hours, and now it was time to think. The pattern of their thoughts encompassed all that had happened in Smith County, but always

returned to the question of whether they would ever truly be free of that small portion of Texas real estate. Would it forever haunt them?

"It's Lusk, you know," he whispered. Kim remained silent.

"Lusk has turned over for the feds," he added. "I know," she answered softly.

"He knows a helluva lot." "Yeah, he does."

"He's told him about us going to Hardy and showing the tracks on my arm."

Kim stirred to her side, facing him. "That's why they kept asking about whether or not we used drugs in Tyler. Lusk told them."

"Right,"

"But that's not the bad part," she offered. "They'll be after Hardy, too. That is obvious. They asked too many questions about Hardy."

"Yeah."

"And if they get on Hardy's ass, you know what's going to happen." Creig chuckled softly. "Hell, they'll never break Hardy. He's got the whole city to back him up."

"That's not it," said Kim. "He's going to cover himself and Wagoner will back him. Sure. But they're gonna' hang us out to dry."

Creig thought for a long moment. The lights of a vehicle turning on the street illuminated the wall, attracting his interest. "Yeah," he finally agreed. "It'll be us against the feds and the city."

"That's how I see it," said Kim.

"By now, they've gone through every case report we ever made and they could have altered them anyway they wanted," he surmised.

Kim turned quickly to her back again, as if it were a gesture of disgust. "If everyone had just kept their mouths shut. If everyone stuck together, there wouldn't be any way in hell they could prove a thing."

The feeling of apprehension overwhelmed Creig. It was the old gut feeling of the lawman that informed them when everything was not well. "It'll be us against the government, the city, and the defendants," he analyzed. "And us against Lusk."

Kim was silent. Her mind raced with thoughts before she spoke. "I hate to think of it," she said.

"Of what?"

"Of what we could do. It would mean my losing everything with the Air Force. They'd get rid of me in a hot minute, but it's something we could do...."

Creig turned his head in her direction. "What are you thinking?"

Kim smiled in the darkness. "We could call Harrell and Meese and tell them that we're on their side. We'll tell everything. I mean, everything. That way, it would be us, Lusk, and the government against Hardy and the city."

"Oh, shit," moaned Creig.

"Yeah, but think of it. What better way is there? We could plea bargain our way out of anything we've done. We're the best witnesses they've got. We're a helluva lot better than Lusk. And combined with Lusk, they have a good case against Hardy. I wouldn't mind getting that son of a bitch, anyway. It's a way of getting us off the hook and we still come out of it on the right side."

When Creig did not reply immediately, Kim prodded him with an elbow.

"Whadya' think?"

Creig groaned. "Oh, hell. It's the best game in town, I guess." "It's the only game in town," said Kim.

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Agents Meese and Harrell had spent the night in a San Antonio motel and had burned the midnight oil going over the tapes of the interview. They sought for inconsistencies in the testimony of the narcs, but with the typical responses of "yessir" and "no, sir," it was difficult to put a handle on anything to be found in error. Finally, they had surrendered to the fact that it would take rest and time to clearly review the interview and they had slept soundly, knowing that they would have to report that little was gained from the Matthews couple.

In the morning, they had shared a breakfast in silence. Occasionally, they would offer comments about the cold, aloof manner of the former narcs and shared the opinion that they would be very difficult to break. It

would take a massive amount of evidence to be placed before them for them to even consider any admission. Maybe, even then, it would not come. They thought of what would be required to gain a confession from Kim and Creig, and agreed that they were the type who would to go prison claiming their innocence. In their case, that would be damaging. A large segment of the population was so steeped in the belief that lawmen were all honest that such claims would be widely believed. The feds would be the villains persecuting innocent heroes who had sacrificed much in the protection of society. It was an image they did not enjoy contemplating.

After breakfast, they turned onto the route leading northward to Smith County. It was a pleasant day. The terrain was green and lush, resting within that time of beauty between summer and a pending fall. Cattle grazed in pastures and pillows of clouds moved above them. They spoke of how they would like to pause and fish in tranquil lakes located within the large ranches of the area - lakes promising an abundance of bass and catfish. It was too nice of a day for such dismal business as corruption in Tyler. They avoided the subject, knowing that it would only bring another wave of confusion to their minds.

They had not traveled far when the mobile telephone within the car resounded. Meese glanced quickly toward Harrell before taking the phone from its cradle and conducting a brief conversation. As he spoke, he gave quick glances into the rear-view mirror, slowly pulling the vehicle to the side of the road. His words were brief and concise. With a slight smile, he gave Harrell another glance and hung up the phone.

"We're turning around," he told his partner. "Kim and Creig want to talk to us."

Harrell felt a glow of excitement. "Why?" he asked cautiously. "You ready for this?" asked Meese. "They want to spill their guts."

"I don't know," replied Meese, "but I'm going to beat it back there before they change their minds again."

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It was the road back to Tyler. The route back toward Smith County. This time, it was not the pleasant prospect of starting life over again. It was

not the reprieve from the past and a chance to re-establish a reputation. It was not the excitement of a new assignment or the knowledge that Smith County could be the corridor to a new future. This time, it was Kim and Creig in their auto following the FBI agents back toward the sylvan hills of East Texas. It would be turning onto Loop 323 and passing the old Point 21 Club. It would be turning within blocks of the Strawberry Ridge Apartments. It would be traveling on streets they had known so well and recalling the meetings held with people now languishing behind bars or making monthly visits to probation officers. They would drive past the road leading toward the mobile home park and they would spy the dome of the courthouse where they had testified too many times for recollection. No, this time it would be different.

In the office of U.S. Attorney John Hannah,¹³⁴ Kim and Creig met with the agents and their fellow agent, Larry Tongate and Bob Wortham. This time, there would be cordial introductions and handshakes. The tone had changed. There were preliminary measures to be taken, and the mood had to be established. Wortham advised them that they should have an attorney present. This time, they could not call upon Wagoner. The city would not sponsor them by providing counsel. Creig stated that it wouldn't be necessary. They were there to tell the truth. Having an attorney there wouldn't change things.

Wortham was adamant. By all means, there should be a lawyer in attendance representing their best interests. He would be hesitant to go much farther unless they had counsel.

In a private conference, Kim and Creig attempted to determine which of Tyler's attorneys would best understand their problem and give them counsel without bias toward their prior activities. They decided upon Jeff Baynham. The feds suggested they call Baynham and briefly discuss what had transpired with him and receive his advice before continuing. From their point of view, they did not want a situation to later arise where the narcs could claim they had been coerced into any statement.... that it had been extracted from them without the benefit of counsel.

134 Ironically, John Hannah was leaving the office of U.S. Attorney at this time in anticipation of seeking the office of Texas Attorney General. He was to win the nomination, but lose a tight race to Jim Maddox. Bob Wortham was to become Hannah's successor, thus was included in the meeting since he would inherit the case.

The narcs trusted Baynham. The slender attorney had not had an involvement in the drug bust and thus had no axe to grind. He was competent and known to protect a client's interest with fierce stubbornness. Of all the attorneys they could think of, he was the best candidate.

Baynham arrived quickly. He had excused himself from another client to respond to the narcs' call. The fact that they said they were calling from Hannah's office gave him all the information he needed for the moment.

It was important. Something was coming down, and it was obvious that he was needed.

Baynham was steered into an office where he shared a private time with his new clients. Briefly, they informed him of their intentions and said they had made up their minds about what they were going to do.

They would tell the truth now. Finally, they would tell the truth. In return, they wanted the best deal possible from the government. The feds had refused to talk about a deal up to this point and had insisted that they secured counsel. With Baynham's aid, perhaps a plea bargain could be secured.

Baynham understood. It was the typical response from a client wanting to admit guilt but not wanting to pay the maximum penalties for it. Certainly there was a value to such a confession. It would save the agents from long weeks of investigation. Admissions from the former narcs would spare the government from the time and expense of endless interviews and the brain-trust sessions of piecing information together in a portrait of possible truth. Yes, there might be a value to such statements.

Now that the preliminary requirement had been met, the agents worked diligently in conducting interviews dealing with every known event within the drug bust. They dealt with the matter chronologically.

Who contacted Creig about coming to Tyler to gain a job with the department? How was it that Kim had been hired? How did they identify the suspects who were later indicted? What role did Hardy play? Always, they returned to that. Hardy.... Hardy.... Hardy....

For twenty days, the interviews continued. By night, Kim and Creig were housed at government expense, always wearing from the day's grilling. They did not leave their room, for they did not feel safe in Tyler. They had hoped the interviews that the agents called "debriefings" could have been conducted in Dallas.

But, no, the agents had insisted on Tyler. They wanted to be able to make immediate confirmations to everything the narcs said. By the third week in August, the agents were ready to take their findings to the Federal Grand Jury.

Before that could happen, however, there had to be one more meeting with the narcs who were, by now, far more passive than they had been in years. No longer were they the cocky, arrogant pair who had roped the drug problem of Smith County and tied it into neat knots of convictions. Now, they understood the torment of the snitches they had used over the years. They secretly could recall the moments in which they had spoke in tones of disgust of the activity of informants. They had termed them as the scum of their operations, the vocal inroads leading to the despair of potential defendants. It was a different story now. They were the informants. They were the snitches. And they knew there were some who would view them in the same disgusting role as they had prescribed for others so long ago.

If the days of interrogation were exhausting, the nights were even more trying. A chasm had grown between the narcs. Kim was given to reflections now, realizing that if Creig had not surrendered weakly to drugs, the entire problem would never have arisen. She chided him for being the one creating their current plight. He defended himself, reminding her that she had not been the pillar of virtue herself. There had to be someone to blame, and they chose each other.

In the final meeting, the cast would be the same with one exception. Kim, Creig, Baynham, Hannah, Wortham, the agents Meese, Harrell, Tongate, and newcomer Mike Knapp, the agent in charge of the FBI office.

Almost ceremoniously, Wortham handed the narcs a plea bargain agreement for them to review with their attorney.

"In the United States District Court for the Eastern District of Texas, Tyler Division, United States of America vs. Benjamin Creig Matthews and Kimberly Ramsey Matthews, Criminal Action No. TY-81-¹³⁵-CR, Plea Agreement.

"The United States of America, by and through the United States

135 Since the charges had not yet been heard by the grand jury, there was no way to specifically identify the case, thus this area was left blank within the document.

Attorney's Office for the Eastern District of Texas, and Benjamin Creig Matthews and Kimberly Ramsey Matthews, Defendants herein, by and through their counsel of Record, T. J. Baynham, Jr., hereby enter into and acknowledge the following plea bargain agreement:

"Defendants have agreed to fully and completely cooperate with the United States in its continuing investigation into possible Federal criminal violations occurring in connection with the undercover narcotics operations conducted by the Tyler Police Department during 1978 and 1979 and in which Defendants participated as undercover narcotics officers. Such cooperation shall include, but not be limited to, the giving of completely truthful testimony before the Federal Grand Jury and the giving of completely truthful testimony in any and all criminal trials occurring as a result of the Government's investigation of said undercover narcotics operation. It is further agreed and understood that the United States Attorney (E.D.T.)¹³⁶ shall be the sole judge of the extent and degree of cooperation received from the Defendants in whether or not they have fully satisfied the agreement to fully and completely cooperate with the United States in its investigation and in any trials which may eventuate from that investigation.

"The United States has agreed to seek, and has sought, a grant of immunity from State prosecution of these Defendants relating to any criminal offenses committed by them in connection with the said undercover operation.

"The United States has agreed that should the Court accept Defendant's plea of guilty, Defendants will not be prosecuted by the United States on any other violations of Title 18, United States Code, relating to Defendants' activities in connection with the said undercover operation. Provided, however, that the Defendants each will remain subject to federal prosecution for any false and perjurious testimony given by the Defendants during any federal proceeding arising from or pursuant to this agreement, including the use against such Defendant in such perjury prosecution of testimony and other information obtained pursuant to this plea agreement.

"It is expressly understood that no agreement is made with respect to

136 Abbreviations contained within the document represent Eastern District of Texas.

any possible sentence which might be imposed by the Court as a result of Defendants' pleas of guilty inasmuch as this matter is exclusively within the province of the Court. However, the Government will make known to the Court prior to the time of sentencing the extent of the Defendants' cooperation with the Government.

"It is expressly understood by and between all parties that a request will be presented to the Court that sentencing be deferred until such time as the United States deems it proper that sentence be imposed.

"It is further expressly understood by and between all parties that this plea agreement shall in no way be dependent upon or tied to any particular outcome at any subsequent trial which results from the Defendant's cooperation and testimony."

The official document contained spaces for the agreeing parties to sign: Bob Wortham, Kim Ramsey Matthews, Creig Matthews, T. J. Baynham, Jr.

Creig objected to the agreement. It was too one-sided. It provided that they could not be indicted for crimes that would be judged by state courts, and that was one of his major concerns (the former narcs being sentenced by a Smith County court?) but he wanted greater relief for Kim.

"See if we can't arrange it for Kim to plea to a misdemeanor charge," he instructed Baynham.

Within minutes, Baynham returned with a shake of his head. "No way," he advised. "This is the offer. The only and last offer you'll get. They made that clear."

Creig ran his hand over his brow, staring at the document. "What do you think it'll bring us?" he inquired.

Baynham signed. "I told you in the beginning that the only thing to do was to tell them the truth. If you've done that, then I think it'll go pretty easy on you."

Creig chuckled bitterly. "That doesn't say anything, Jeff. What do you think we'll get? Is there a chance for probation?"

"No," the attorney replied honestly. "Not in your case. The case is too strong for that. The violations too serious. A civil rights violation of this kind carries a maximum of 10 years in prison and a \$10,000 fine."

Kim looked up. "Are you saying that's what we'll get?"

Baynham hardened his face. It was the time for truth. "Kim," he began sternly, "Ken Bora got twice that much."

With their signatures upon the plea bargain agreement, a chapter in the infamous drug bust had ended. Now there would be the long periods of apprehension and appearances before the U.S. Grand Jury. Kim would recall the submission of a polygraph with a federal examiner. Her words would now be verified as the truth. She did not know who shot Creig Matthews. She had not seen the face of Ken Bora. Bora had never smiled at her through the window of the mobile home. The assailant was unknown.

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Two things had to be done. The first was for an agent of the FBI to go to Eastham and talk with the unit's warden. The prison official would have to be warned that there was a distinct possibility that an innocent man was behind the wires of the Eastham Unit. It would be wise to get him out of the fields.... out of the marshes.... and assign him to something easier until the time came for him to be removed from custody. The warden nodded with disgust. Bora was transferred in his assignment and became the unit's accountant for its massive farm.¹³⁷

The next thing that was to be done was perhaps the most unpleasant. John Hannah, the U.S. Attorney, would pay a personal call on District Judge Donald Carroll. The message was clear. Hannah wanted a court order removing Bora from prison. At first, Carroll was hesitant. Even if the narcs had lied as Hannah had related, the lies were confined to a large part to only the delivery of cocaine charge. Bora was in prison for shooting Matthews, a charge different from the drug matter. Hannah related that even the shooting was now help in suspect. A polygraph result proved that Kim didn't know who had done the shooting, that her identification of Bora had been fabricated. But polygraph results were not admissible

137 Bora was later to relate that while on his new assignment as the accountant for the prison farm, he was able to witness the extent of the graft taking place within the prison. He would state that unmarked trucks would haul produce out of the prison without cargo records, and was convinced that their destination was to private retail outlets with someone receiving the profit.

evidence, reminded Carroll. The fact remained that Bora had been convicted by a jury of his peers for a charge that was unrelated to most of the perjuries now admitted to by the narcs. Whether or not there were grounds for a release of Bora was highly questionable.

Hannah leaned upon the judge's desk and utilized his grass-roots logic. "Judge, there's no question now that Bora could get a new trial if that's the route we want to take. But, if he gets a new trial, where are you going to find a jury to convict him of shooting Matthews after all that was done to him?"

Carroll thought for a long moment. Hannah was right. It would be difficult for any prosecutor to convict Bora again. And an extension of that logic could be that if the narcs lied about the cocaine delivery, then it was totally reasonable that they lied about Bora being the gunman. To continue to detain Bora would appear far worst than to release him. If a new trial would create reasonable doubt - as it certainly would - then a judge must have reasonable doubt at that moment. Carroll agreed to issue the order for Bora's release from prison.

"What about bond?" asked Hannah.

"If we're going to do this thing," replied Carroll, "let's do it right. Personal recognizance."

Not only would Ken Bora be released from prison, but now he would be released pending a final determination by the court on the judicial honor system, without monetary bond and on nothing more than his word that he would remain available to the court. It was indeed a vast turn from the maximum security of Eastham and the horrors he had known there.

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A prison guard rapped his stick against the bars of Bora's cell that morning and called coldly, "Roll 'em up, Bora, and come with me."

In prison jargon, to "roll 'em up" meant to gather all of one's personal belongings together for a final departure from one's cell. It had ominous connotations. It typically meant that some disciplinary action was being taken and a transfer was being effected - perhaps to solitary confinement. Bora could think of nothing he had done wrong, but also knew the

code of the joint. There would be no questions asked of the guard, just immediate obedience. To probe the reasons for a command invited the officer's wrath and usually made things much more difficult.

Bora quickly gathered everything that was his and rolled them into a blanket. He threw it over his shoulder and stood at the cell door, waiting for someone at the main controls to pull the switch that would slide the door back while all the others remained locked. It was one of the most feared sounds of the prison. To have a single door opened during a time of lock up for all other prisoners typically produced a clattering sound of bad omen. Curious men leaned against their bars, shoving mirrors through them to catch in the reflection the scene taking place down the corridor. Kenneth Bora was being taken out of his cell. There could be no question about it, it was bad news.

It was obvious that it wasn't a shakedown. If that had been the case, Bora's cell partners would have been ordered to stand in the corridor while the prison's "goon squad" moved in with an arrogant ransacking of the cell. No, all they were doing was removing Bora and all of his possessions. That usually meant that he would not be seen for a while, and when he reappeared, he would be thinner and pale from the damp confines of the joint's solitary cells. There were whispered words of encouragement. "Hang tough, Bora," some called.

Even Ken was wondering what he had done wrong. He quickly reviewed his actions of recent days and could discover nothing that he knew to be a violation of prison rules. After he had been transferred out of the fields, he had made a special effort to stay clean, for he didn't want to do anything to jeopardize his sudden good fortune. No, he could think of nothing, but knew that it had little meaning. The prison was really no different from society. One didn't have to do anything wrong to be accused, and typically, the accusation was an ample substitute for the truth to bring punishment.

He stepped from his cell and waited for the electronic controls to close it again with the hollow clatter that would never be erased from his memory. No matter how much ex-inmates tried to forget the symbols of prison life - even when they were able to forget their number, cell number, the names of friends and associates during their confinement - they would always admit that the singular element they would never dismiss from

their memory was the sound of the cell doors opening and closing. It was the gateway to hell, and it would be forever upon their memories.

With robotic response, Bora followed the guard down the corridor past the cells where the men stood at their cell doors watching him. "Where you goin'?" some would inquire, but Bora would only shrug, not daring to utter a verbal response. He moved silently behind the guard until they reached the second iron door at the end of the long tier and again heard the rattling of the door opening. Other guards were now in the ante-room beyond the cells and he followed the guard through their quarters into the main hall that led to the executive offices. He knew now that he would be disciplined, for it was this route that was taken when one was interrogated for some alleged offense of the institution's rules. Yet, the guard walked past the official's offices and Bora frowned, wondering of their destination.

Near the end of the corridor was the processing room. It was here that prisoners were checked in and out of the prison. Their personal property was kept there in vaults where manila envelopes held their jewelry and other items that were of value to them during the days of their freedom. They contained the items that were no longer of significance. Expired driver's licenses, out-of-date library cards, collections of personal notes and letters that were oddly linked to a life known before the iron doors had closed on that first day they witnessed the terrors of Eastham.

The guard withdrew a key chain secured to his belt and unlocked the door. Bora followed him again, walking into the brilliance of the fluorescent lighting within the record room. The custodian motioned for Bora to take a seat near the wall and took the blanket containing his property from him, handing it to an officer on the other side of the long counter. "Bora," he told the guard. "Kenneth."

The other guard nodded his approval of the identification and opened the blanket to review all that it contained. "Is this everything?" he asked of Bora. The prisoner nodded, muttering, "Yessir."

Ceremoniously, the guard called for an inmate clerk and repeated the identification to him and Bora watched the prisoner quickly thumb through the files of manila envelopes. It was not good, he surmised. Not only were they charging him with some violation, but it was apparently something serious enough to prompt his transfer to another institution.

From Eastham, there could only be one destination - Huntsville, and the thought chilled his spirit. He wanted to stand and demand to know what he had done wrong. It was the impulse of defiance he had felt so often within Donald Carroll's court. Yet, it was not the thing to do in Eastham. There, such an act could bring serious retaliation, and he sat stoically, in absolute silence.

"There's a couple of men here to see you," said the guard. "You'll have to talk to them first, and then we'll dress you out."

Ken frowned, Dress him out? That wouldn't be done on a transfer to Huntsville. When someone was dressed out, it meant that they were given civilian clothing known in the joint as "street clothes" and usually indicated that there was another appointment with the courts. His mind reeled with the thought, for he knew of no proceedings that had been approved by any court within the system.

Bora shuddered with the sight of the men the guard had led into the room. They wore the drab brown of Smith County deputies and the patch on their shoulders clearly identified them. One was young and lean while the other was greying deeply above his deeply tanned face. They did not smile or offer any signal of recognition, but leaned over the counter to speak in hushed tones with the clerical officer on the other side. Once the whispers had ended, they moved to him and stood over him as stem symbols of some forgotten authority.

"Ken, they're gonna' dress you out and you'll be coming with us," said the younger deputy. "The papers have all been cleared, so it won't take too long. Just try to hurry it up, huh?"

Bora sighed deeply with a nod. "Where we going?" he asked, but the question seemed immediately absurd to him. Of course, they were returning to Smith County. Where else would the county's deputies be taking him?

The younger man shook his head. "We've got orders to take you and not to talk about anything."

Bora displayed an expression of amazement. "Take me and not discuss anything? I'm not supposed to even know what's happening to me?"

The older man flashed a quick smile. "C'mon, Ken," he stated. "Just go along with it all for now, huh? We've got our orders and that's what we have to do."

He would have protested more, but from the corner of his eye, he captured the sight of the warden speaking with the commanding guard of the shift. It was not the time to be belligerent or to be seen in a moment of protest. No, he would comply and not invite the wrath of the head administrator who was known for his strict application of rules and discipline alike.

One did not conduct discussions with the warden. As a prisoner, there were only the responses of yessir and no sir. Nothing else was acceptable. The mandates of the warden were final, and his word and power went unquestioned.

"You can be taking off those clothes," said the warden coldly. "They'll have your clothes here in a minute."

"Yessir," muttered Bora, pulling the shirt from his shoulders. He glanced toward the warden as he moved, and caught the expression of disgust upon the man's face.

"By the way," offered the official as if it were an after-thought. "Your lawyer called yesterday and said to tell you to keep your mouth shut and not to speak with any reporters."

Reporters? thought Bora. What would reporters be doing at Eastham? Why would they want to talk to him? He waited in the hope the warden would offer more, but when nothing else came, he replied meekly, "Yessir."

He was astonished when, with the delivery of his clothing, all of his personal items were returned to him. He signed the release form indicating that he was in receipt of all that had been his, but didn't take the time to inventory everything even though the rumors within the joint were that no one ever got all of their jewelry or valuables back. Now there wasn't time. The deputies, guards, clerks, and the warden hovered about him with each movement as if urging him to quicken his pace.

There were no handshakes or final words of advise. It was a cold, bitter dismissal. The warden merely looked at the deputies once Bora had dressed and stated, "He's all yours."

The brown and white unit stood in readiness as they moved past the entrance gates of the prison. The older deputy had carried Bora's belongings and the young one held the rear door of the patrol car open for him. At that moment, Bora paused, instinctively holding forth his

hands. He had not questioned up to that moment if they would handcuff him or not, rather, he had only wondered if they would put the cuffs on behind his back, for that would make the long journey almost unbearable. For a long while he stood there beneath the autumn sun with his wrists extended.

"Get in," ordered the younger deputy. There would be no handcuffs.

Bora examined the deputies as they moved away from Eastham. They were silent and efficient. They did not turn to view him, making certain that he was not plotting in any way. Their behavior was unlike any he had witnessed from other lawmen during his encounters with their methods. It was as if they were ignoring him, and it brought fear to him troubled mind. There was a metal screen between him and the deputies and the back of the unit was without door handles. Perhaps they knew there was no way in which he could escape. Perhaps that was why they were confident enough not to show concern.

He turned in his seat to look back as the unit moved away from Eastham. In the fields, the men were bent over the rigid rows of cotton and he was thankful not to be among them. He could see the stables and the block house where he had worked as an accountant. He had wondered why he had been transferred from the fields and marshes to a desk job, but knew the ways of prison. One never questioned good fortune, he only accepted it with the question of how long it might last. He could detect the ten-foot fence around the institution, crowned with its torturous accordion-style barbed wire. No, he thought, the circular twisted wire was called concertina wire - yes, that was it. He wondered why such minor details should now so concern him, but had surrendered to the workings of his mind and permitted it to flow easily and freely. It was the only safeguard from the fears that invaded his spirit.

"You can smoke back there," advised the older man. "If you need a light, just tell me and I'll give you one."

Bora shook his head. "No, thanks, I don't smoke."

Past the windows flowed the rolling hills with their denizen cattle with heads bowed toward the lush grasses. Fences marked the boundaries of private land and Bora thought of wire and what it had done to the nature and history of man. Here, it was erected to keep cattle in. A moment ago,

he had been among the human refuge of society kept intact by wire and steel. He watched as they passed over a bridge where the waters of a slow moving river flowed beneath them. He recalled the days when his body longed for a drink of cold water when bent over the bristles of the cotton stalks. A horse raised its head with their passing and he thought of the guards and their horses. He remembered that on his ranch in Palestine, he had collected a gathering of long-legged purebred Arabians. Would he ever recognize the beauty of horses again?

It was a sudden recognition. His eyes widened with the thought as he noted the highway sign identifying the road on which they traveled. He had been transported to Smith County on other occasions when his appearance in court had been ordered. Before, there had been the main highways - the interstates and well-paved arteries - not the serpentine country roads now taken by the deputies. Silently, he now became vigilant. Within a few miles, he spied a directional sign indicating that Palestine was to the northeast. That would be the route to take to Tyler, he knew. These were not the roads he had traveled before. They had passed the turnoff toward Smith County.

"Hey," he said boldly, "we missed the turnoff back there. Where are we going?"

The driver peered into the rear view mirror. "You'll see when we get there," he responded.

"Yeah, but this isn't even the road to Tyler," he protested.

The driver examined him within the mirror and ordered, "Calm down. We have orders to take the back roads and maintain radio silence."

They were not going to Tyler, that was obvious. Bora wanted to prove the men further, protesting the shadow of ignorance they had forced upon him. Yet, he settled back into the seat and resolved that he would collect his thoughts and analyze all that was happening. He had learned that the best course of action was to be cooperative, but always alert. He assembled the facts within his mind. They had not handcuffed him. They were taking back roads. They had passed the turnoff to Smith County. They were keeping radio silence. In that moment, all of the instincts he had learned within prison were called into focus. He felt the gnawing fear rising within his stomach. There could be no other answer. They were

taking him deep into the deserted back country where they would say he tried to escape. He was not restrained, for that would be too incriminating. How could they explain shooting a man in handcuffs? They would pull off on some deserted road and open his door. There would be the suggestion that he step out to refresh himself beside one of East Texas' noted pines. Once out of the car, they would draw their pistols and pump slugs into him. The infamous Kenneth Bora would have been killed during an escape attempt. The prison authorities would back the deputies' stories. The deputies would support each other. Kenneth Bora would be silenced forever and the question of his innocence would be erased within the act. Why would an innocent man try to escape?

The thought took form with a cool calculation. He no longer feared death, but would utilize the moment to provide a final evidence of his innocence. He determined that he would not, under any circumstances, leave the back seat of the unit. They would have to kill him there. They would have a difficult time explaining the blood on the seat. They would have to revise their story and determine one that would explain why he had been gunned down within the vehicle. Yes, he would remain in the unit and they would have to commit their act under conditions that would be hard to explain later. It would be explained, he knew, and the explanation, however bizarre, would be accepted. For that was the nature of Smith County.

He was now prepared for the worst. His body was taunt with expectation and he waited for the unit to turn onto a dirt road. To ease the moment, however, his mind formulated other possibilities. Possible conditions that would have brought the same responses from the deputies and prompted the same circumstances. The most frightening one was that he was scheduled again to appear before Judge Carroll. Yes, that would have brought the deputies to Eastham. He would be charged with something greater now. In contemplating what charge it could be, a chilling possibility crossed his mind. Creig Matthews had died. All that would be needed in such a circumstance would be for the coroner to declare that the cause of death had been the gunshot wounds. Then, Bora would be brought back before the courts and tried for capital murder. That could bring death row and the legally-prescribed method of death. In Smith County, there could be no other verdict for Ken Bora. Warren Heagy had

left the message for him not to speak to reporters. Surely if Matthews had died, the reporters would have been clamoring for pictures and statements. That would have prompted Heagy's caution. Yes, that would be a logical reason for his being transferred from Eastham. A murder conviction would make him an immediate resident of Huntsville.

"What am I being charged with now?" he asked boldly of the deputies.

The older officer turned in his seat. "What's that?"

"What are they charging me with this time?" repeated Bora.

"Hey," said the man, "I'm sorry, but we can't talk about anything. Our orders were not to discuss anything, Ken."

Bora retreated back into the seat and entertained the thought. If that was the case - if he was to be charged with a greater crime - the prison officials wouldn't have given him his personal property. They would have given it to the deputies. But why should Heagy be so cautious? Obviously, he didn't want anything said that could be incriminating. He didn't want his client to damage his case - whatever that case might be.

Small Texas towns dotted the route and the patrol car moved slowly through them, as if aware of the notorious speed traps existing there. He could recognize their direction as being northerly, slightly to the west. Each mile took them farther from the direction needed to reach Smith County. Farmers glanced up from the turning of the earth to view the passing squad car and Bora felt the humiliation of being inside the unit. To be seated behind the wire and the deputies only served to further identify him as an undesirable element of the society that found such people as the farmer as its basic ingredient. He felt the splendor of wearing his own clothing. There was a comfort in having the clothing he had purchased once, long ago. It fitted him poorly now. His shirt hung from the shoulders and the waist of his pants slumped about him. He wondered if he would be wearing these items of clothing when the deputies gunned him down in the silent hills of the terrain about him. He envisioned the bloodstained shirt and his twisted body upon the warm afternoon grass.

He could not bring himself to trust the officers. It was instinctive now. Lawmen were not trustworthy. His mind raced back to the days within Tyler when his reputation was spiced with fantasies spun by the police department. He was involved in the killing of a man in Odessa - Ector

County. That had been prime among the early rumors about Ken Bora. They never told that he had been hundreds of miles away at the time of the killing. They only reported that the victim had been someone who owed Ken Bora money. That alone was enough motive for Bora to have been involved. Ector County lawmen fostered the theory and flagrantly linked Bora to the killing. Then, there had been the pornography charges. Bora had been a pornographer. He thought, what is a pornographer? Was it a man operating a theater showing X-rated films? Was it a man who owned a newsstand selling Playboy, Penthouse, Gallery or a host of other magazines hungrily sought by those given to such enjoyments? In his mind, the answer was a resounding, no!

He recalled the days in Dallas when Dallas vice officers would call on him and challenge his showing of films such as "Deep Throat," "The Devil In Miss Jones," or "Behind The Green Door." At first, they informed him that the films were a violation of city laws and that he should refrain from using them immediately. He had not complied. His retort had been that the United States' Constitution's First Amendment gave citizens the right to be entertained in whatever form they sought. These were adults attending his theater. They had the ability and the right to choose what they wanted to see. With that, he was arrested?

The process had been simple. Post a bond, pay a fine, return to the theater, show the same movie again. But the process didn't end there. The vice officers would appear again. Another arrest, another bond, another fine, and another trip back to the theater to place the controversial film back on the projector. The rotation of events continued. Bora would not submit to the will of the officers and they recoiled with his obstinance. They had never had anyone defy them so openly. Certainly, Bora had to have connections. Strong ties with the producers and promoters of pornography. Bora had to be a member of organized crime.

It was not difficult to discover that Bora was dealing in the exotic "rubber goods" that he distributed to retail outlets hawking such products. Again, Bora's logic was elemental. If a woman wanted to play with herself and use a rubber imitation of a man's genitals, then that was her business. If there were enough women with such tendencies, then he would make it his business. The acts were performed privately and, to him, of no concern to any standard of the law. He had seen stores selling

brass knuckles that were clearly prohibited by law, as paperweights. The law had not converged on these stores, but he was now being attacked by all factions of the police. He was arrested for selling a Playboy magazine at his newsstand. His warehouse was raided and his stock of rubber goods confiscated. The surveillance of the police had turned into open harassment.

This, too, followed him to Tyler. Dallas authorities bitterly admitted that they had never been able to make a "real" case on Kenneth Andrew Bora. Two counts of commercial indecency was a poor showing for someone as important as he was within the area's crime picture. Slowly, his involvement in pornography grew with the speed and scope of rural rumors. He not only showed porno films in his theater, now he produced them with his own sophisticated equipment. He was deeply into the business in all of its repulsive forms - so said the rumors spawned by the Dallas police.

In Tyler, it was apparent that he was making money. His clubs were filled with hot-blooded young women. Surely, the lawman's logic precluded, such women had to be used in Bora's porno operation. But how were they enticed into such activities? There could be only one solution. Bora had to be hooking them on drugs and then corrupting them in porno films to support the habit he had cruelly inflicted upon him.

It had been a mushrooming event. The minor infractions Bora had committed in the days when he operated theaters and newsstands were now exploded into full-scale mafioso activities. He had become, through rumors only, the porno kingpin of East Texas.

It was a reputation he would never escape. Police form opinions based upon their experiences, but are seemingly exempt from the court requirements of proof. There was never a shred of evidence to support the claims of the police, and their opinions were so fragile that at one point Kim Ramsey was to declare that Bora was "into" pornography because the police had discovered some empty video tape film boxes outside of his warehouse. She would not mention that nothing was found inside of the warehouse, for the boxes (empty boxes, at that!) were enough to impress the juries of Smith County.

In the course of all of the events to follow, there was never a young woman to come forward and declare that Ken Bora forced or enticed her

into a performance in a porno movie. A search of Bora's home never produced a porno movie that officials could state had been made by Bora's private equipment. No one would ever come forward and state that they had purchased drugs from Ken Bora or had even seen him using them, even though a \$10,000 reward for such information was offered. Nowhere, in any portion of the nation, has anyone uncovered a porno movie featuring the young women of Tyler and produced by the kingpin of East Texas crime, Ken Bora.

No, there was no question in his mind that he held lawmen in contempt. He reviewed all such events and concluded that the representatives of the law were manipulators bent upon the persecution of anyone fitting into the framework of their preconstructed theories.

It was fitting that he had been thinking of the Dallas police when he looked up to read the passing sign. Dallas was but a short distance ahead. In the distance, he could detect the skeletal outline of the city's buildings.

He would wait until the unit turned onto the highway leading toward the city before speaking, and when it did, he moved forward in his seat.

"We're going to Dallas, huh?" he inquired.

The older man smiled. It was the first gesture of warmth he had seen from the men. "You'll see in a minute, Ken," he answered kindly.

Now they were moving onto the main highway and over the elevated highways where other arteries passed beneath them. The car turned off of the highway into the lesser area of the city, where derelicts rested in the shade of condemned buildings and paper rested in gutters like forgotten vagrants. They wound through the maze of streets where construction impeded their progress and finally turned into the driveway of a great stone building where the words were carved in the granite over the door, "Dallas County Hall of Justice."

"This is it," announced the driver, turning the key in the ignition. Without speaking further, he stepped from the car and opened Bora's door. "Let's go," he commanded.

As he had in prison, he moved obediently with the men, one on each side of him as if they were bookends guarding some notorious criminal. In Texas, thought Bora, he was, indeed, considered to be notorious and thought of as one of the state's major criminals.

Their footsteps echoed through the marble halls before they stepped

onto the elevator. There were no words between them. The deputies were coldly efficient, tucking documents beneath their arms and placing a hand on Bora's elbow, steering him at their will. He felt the sensation of the elevator halting at the prescribed floor and listened to the hissing of the door being opened. It was different from the opening of the cell doors and he wished he could hear it again.

Down the hall, they guided him to the outer office of one of Dallas County's courts. The secretary was pleasant, smiling with their entrance and instructing the deputies to take Bora into the jury room where his attorney was waiting. She chuckled for a moment and then qualified her statement. "I guess he won't need you now, will he?" she asked of the deputies. She then pointed to the door and turned her smile to Bora. "Your attorney's in there, Mr. Bora."

Mr. Bora? He had not been called Mr. Bora in so long it had an alien sound to it. He returned the smile and opened the door.

Warren Heagy had his back to him. They were alone in the room. Heagy had been staring out of the window and responded only when he heard the closing of the door. A smile split his face as he held forth his hand. For a moment, Bora stared at him, unresponsive. "Shake my hand, damn you," declared Heagy, "and then sit down. You can't stand this standing up."

It had been reaction that brought Bora to shake his attorney's hand and take a seat at the long table. The slender attorney sat across from him and had started his long narration with the announcement, "This is it, Ken. This is the day."

The words had flowed easily then and Bora was able to only capture fragments of them, for his mind was tormented by the acceleration of the day's events. His mind was in transition, rotating its thoughts to the words being programmed upon it and the realities he had left behind at Eastham. Judge Carroll was in Dallas filling in for another judge. That's why they had brought him to Dallas.... to the south, at Eastham, the men were suffering beneath the sun in the fields. Guards rode horses and the hungry dogs bayed in the distance. Carroll was going to issue an order releasing him from prison. He was going to be free, the right way. Someone would be bitten by a Cottonmouth today in the marshes of Eastham. There was an agony to the bites that was callously ignored by the guards. The man

would be moved to the prison hospital and his progress monitored closely. There couldn't be any time lost from the fields or the marshes. Nothing was more important than the meaningless work to be performed there. The narcs, Kim and Creig, had told the truth. The FBI has broken them. They had told of the lies and of how they had framed Bora in the cocaine case. His mind returned to Eastham. Always, there was Eastham. He could not resist the thought of it no matter how important Heagy's words were at that moment. Eastham had been his only reference to reality for so long, it could not be ignored now. After all, it was certain that he would awaken soon with the rattling of a night stick upon the bars and told it was time to report for chow and his work assignment. He would recall the dream of being transported to Dallas and being confronted with a jubilant Heagy. Yes, he would remember it, but it would be a bitter recollection as all of his dreams of freedom had always been.

He thought of the young man he had known. The young man with the cloud of blond hair dropping clumsily over his eyes. He had met the youngster in the prison's law library. They had discussed the nature of their appeals in those fleeting hours. The youngster's attorneys had an appeal pending that would be heard at any moment. From what Bora had learned of the youngster's case, it appeared that he had an excellent chance for a new trial, and thus a chance for freedom. His intuitive feelings told him that the young man was innocent of the crime that had brought him to prison. The explanation was believable. An informant had named him as the culprit in order to plea bargain his own way out of prison. He had expressed his opinions to the youngster and it appeared to brighten his attitude, to instill a new hope in him.

It was two days before the appeal was to be reviewed by the courts that a demented inmate had shoved a cell-fashioned knife deep into the boy's stomach. It had been one of those senseless acts performed by one of those prisoners the population referred to as a "crazy." The young man died upon the cold concrete. His twisted body rested within a pool of blood and the men had walked beside him in silence, not wanting the authorities to believe that they had had any involvement in the deed. It was fundamental. One more inmate of Eastham had died, and it was of little meaning to any who dwelled there. The young man had simply died and his family took his body to bury it in the sand of West Texas.

"The Federal Grand Jury has indicted Kim and Creig," Heagy was saying. "The backbone of that indictment is the violations they committed to your civil rights."

The narration continued as Bora stared blankly, without expression. He absorbed the meaning of Heagy's account, but his mind retreated to other times when the conduct of life was more fundamental, when it was the question of staying alive rather than living free. Freedom was wonderful, but being alive was the only achievement known within Eastham.

He thought of the man he had come to know within the fields. A bright, perceptive man who displayed a need to talk while the guards were at a safe distance. The man had much to tell and needed someone to listen. It was that simple. Bora had listened, and in that, the man had come to consider him as a benefactor, a friend. The man had much to tell. His spirit was brimming with information he had long suppressed within him. He was a man in immense principles who had confessed to a crime that had been actually committed by his wife. He had not been able to cope with the idea of her going to prison, and thought that the most sincere action he could take as a testimony of his love was to accept the guilt of her crime in a confession to authorities.

Bora remembered the day when the man had received divorce papers from the woman he had so cherished. There was silence in the fields that day. The man had not spoken and remained alone and aloof, working feverishly beneath the sun. That night, the self-sacrificing man took a razor blade with him beneath his blanket and had sliced through the soft portions of his wrists and had bled to death in the loneliness of night.

The thoughts represented but isolated tales of the men within the fields and swamps of Eastham. Certainly they were unique among the population of the prison, or any other prison for that matter. The vast majority of the men were victims only of their own weaknesses and had sent themselves to prison. But among them lived those select few who had done nothing worst than had any of the juries convicting them. It was of these that Bora now thought. He thought of himself, in that moment, as the sole survivor of a great catastrophe. He was forced to wonder why providence had selected him from the scores of men still confined within the hopeless walls of prisons. With the thought of it, he suddenly felt guilty.

"Now, he'll set a bond," Heagy was saying, "but that'll be only until he's able to make the release official within his own court. There's a lot of things to be looked into and it's a way of getting you out of prison now without waiting for the so-called wheels of justice to grind."

Bora blinked himself back to reality. "I don't have any money," he said absently. "I can't post a bond."

Heagy grinned. "It won't take any money. It's a personal recognizance bond. It's just saying you're free and we want you to hang around until this whole business can be wound up."

Ken swallowed hard. "I won't have to go back to the jail?"

"No, Ken. No jail, no prison, no bonds or charges over your head. This is it, pal. This is the day you've been waiting for."

"Why?" asked Bora timidly. "Why'd they do it?" "Why did who do what?"

"Why did Kim and Creig come clean? They had me. Why'd they do it?"

Heagy broadened his smile. "You have a lot of people to thank," he began. "People you wouldn't suspect. Stuart Dowell worked a lot on this business and brought the feds into it. There's the FBI agents, too. And you have J.B. Smith behind you. He told his men to tell the truth on the stand. You have a lot of people who pulled for you, Ken. You might not believe that, but there were."

Ken nodded slowly, swallowing hard again. "You left out Warren Heagy," he said softly. "I wouldn't be here now if it wasn't for you." Heagy raised his hand in protest. "All of this would have happened if I was around or not," he said modestly.

"No," countered Ken. "I'm not very good at this sort of thing. But I know the work you put into my case. I don't know of anyone else who would have done it. I know I owe you a lot of money. You've never even mentioned it. But I'm going to pay you every cent of it, Warren. You're one of the few guys who earned it."

Heagy renewed his protest. "We'll talk about that later," he demanded.

"But that's not what I'm trying to say," Bora continued. "I want to say thank you. I don't know how to do it. It just isn't enough."

As Heagy started to reply, the door resounded with a knocking and

the secretary peeked into the room informing the men that the judge was ready to see them now. They stood quickly as Heagy gathered his briefcase. He moved about the table to approach the door where Bora waited. In that moment, the large frame of Ken Bora sagged noticeably and he shook his head vigorously.

"Shake your hand, hell!" he said, and pulled Heagy into an embrace. "For godssake, Warren, I'm always going to remember what you did for me!"

Heagy embraced his client unashamed. "It's over, Ken," he said softly. "We're going into that courtroom and it's all going to be over. No more prison, no more arrests, no more lies. It's finally over."

"It's over," echoed Bora and the men laughed with the thought. They laughed bring currents of laughter as their celebration of a justice that had finally occurred. They slapped each other's back and repeated the announcement, "It's over!" Only when they realized that the secretary was witnessing their jubilation did they struggle to compose themselves and prepare for the moment before Texas District Judge Donald Carroll.

In but a few minutes, indeed, the incarceration of Kenneth Bora would be over. He was a free man.

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"Justice has a strange expression in Smith County. By the history of the findings of its juries, it has every appearance that the good citizens of the county believe the word of every perjurer and reject the truth when it's finally told. It appears, when one examines the record of the Bora trials and that of Willie Hardy that they convict the innocent and free the guilty. Then, as their crowning touch of justice, they penalize those who finally tell the truth and allow the perpetrators of all their lies to live among them as respectable, free men."

A Tyler Attorney, 1983

THE LAST BREATH OF JUSTICE

The revelations of the confessions of Kim and Creig Matthews brought a tidal wave of reaction throughout Smith County. Sagacious oldsters who spent their days upon the park benches of the city's square had long been advocates of the police department and had spoken of cleaning up the city and ridding it of the long-haired dopers. Now, these same analysts of community affairs poked their tongues into their cheeks and muttered, "I always said there was something fishy about the whole drug bust." Elderly ladies who had lived in the county all of their lives and had never locked their doors were now purchasing deadlocks. They admitted they were not fearful of Tyler's criminal element, but wanted protection from the kind of persecution that had plagued so many through the lies of the narcs. A youthful defendant related how he had attempted for many months to convince his father that he was not guilty of the charges the narcs had lodged against him. When his father had read in the morning newspaper of the narcs' confessions, the son had bitterly inquired if the news now prompted some belief in him. "See? What did I tell you?" asked the youngster. "Do you believe me now?"

The father had glanced up from his newspaper with a fierce expression. "Hell, no," he had replied. "It just means that I'm never going to believe anyone in the courthouse, the city hall or the police department either!"

If the public's reaction was one of outrage, the response of city officials was more guarded. District Attorney Hunter Brush prepared an eloquent statement for the media in which he referred to the actions of the narcs as "a tragic affair."

"The act of falsification of evidence upon which a criminal charge is filed and prosecuted is the most unjustifiable act that one can conceive being committed by a police officer," said Brush.

"I can only hope that these tragic events will serve as an effective deterrent to others in the future and will ultimately strengthen the integrity of the criminal justice system."

While it was a smattering of pure rhetoric, Brush refused to respond to the questions of newsmen, stating only, "I stand by my statement for now."

In unison with most of the city fathers, City Manager Ed Wagoner had prepared his own statement that told of his deep disappointment in the actions of Tyler's super narcs.

"I am disappointed by what I have been told by the media regarding the pleas in federal court this morning," he said on October 6, 1981. "But I have not been briefed on the actions taken there and feel to make any full comment at this time would not be appropriate until fully briefed."

When newsmen approached Willie Hardy for a statement, his words were almost an echo of those uttered by Wagoner.

"I have no comment to make on the pleas at this time. I only know what I have been told by the media and until I obtain other information about the court appearances, I just can't comment."

The implications of Wagoner's and Hardy's statements were that they had been unaware of the narc's testimony - that they were captured within the shock wave of surprise that had encompassed most of the region. Yet, a full 43 days earlier, both Wagoner and Hardy had seen fit to submit to a polygraph examination in the hopes of clearing themselves of a potential charge that would be levied by the narcs in their appearance before the federal grand jury! On August 24, 1981, Wagoner and Hardy

had undergone a polygraph examination conducted by Dallas examiner, Wayne Baker.

Baker had been instructed by the team of Charles Clark and private investigator R.J. Stevens (formerly with the FBI) to conduct an examination of broad perspectives with a list of questions' dealing with prime issues within the drug investigation. Hardy was asked:

- (1) Were you ever aware or have information that Ramsey and Matthews framed anyone?
- (2) During the undercover drug operation, did you know Matthews and Ramsey were using drugs to entrap offenders?
- (3) Did you plan or conspire with anyone to stop the arson investigation of Ramsey's car?
- (4) Did Kenneth Bora ever give you money?
- (5) Did you instruct or tell Sgt. Mike Lusk to lie about personal knowledge he had of Matthews and Ramsey using drugs?
- (6) Did you have any knowledge of any private funds being donated to support the undercover operation?
- (7) Did you instruct or suggest that anyone withhold information from the District Attorney's office about Matthews and Ramsey using drugs?
- (8) To your knowledge did any police official tell Ramsey to identify Bora as the person who shot Matthews?

In each instance, Chief Willie Hardy answered "no." In the examination given Ed Wagoner, the City Manager was to respond "no" to the following questions:

- (1) When you were told of the circumstances of the burglary at Dr. Allen's office, did you believe Matthews and Ramsey technically committed a burglary?
- (2) Other than protecting the agents in the undercover operation, is there a reason for stopping the followup burglary investigation of Dr. Allen's office you are not admitting?
- (3) Were you ever aware of any information that Ramsey and Matthews framed anyone?
- (4) Did you order anyone, or conspire with anyone, to stop the arson investigation of Ramsey's car?

- (5) Did you tape a conversation between you and Judge Calhoun for the purpose of intimidating him later?
- (6) Do you have knowledge of any private funds being donated to support the undercover operation?
- (7) Did you withhold, suppress or cover up evidence that Matthews or Ramsey used drugs illegally?
- (8) To your knowledge, did any police official ever tell Ramsey to identify Bora as the one who shot Matthews?

Now, with the collection of sixteen "no" answers from the two men, Wayne Baker determined that neither had shown signs of deception during the interviews. Wagoner and Hardy had passed their polygraph examinations.

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The questions contained within the examinations produced one glaring problem. If Wagoner and Hardy were as ignorant of what had transpired in federal court as they had claimed, why then would the questions produced in the polygraph a month-and-a-half earlier be so accurate in their relationship to Kim and Creig's testimony? If they had truly not known what was to transpire, how then would the examiner have known to ask about the allegation of Mike Lusk that Hardy had instructed him to lie about the narc's drug usage? How would the examiner have known to inquire about the claim of several witnesses that Wagoner and Hardy had halted the probe into the burning of Kim's car?

Hardy was to produce a glistening explanation for this phenomena. He claimed that he was "having to anticipate" the charges against him as he had heard them via media accounts. Evidently, Hardy was doing a lot of "anticipating" in those days. Tyler Fire Chief Jerry Weaver revealed on August 20, 1981 to Glenn McCasland of the Tyler Morning Telegraph¹³⁸ that he had received a telephone call from Hardy of interesting connotations.

"Weaver said before the FBI met with him at the central fire station to

138 Tyler Morning Telegraph, Thursday, August 20, 1981, "Fire Chief Weaver Reveals Firebomb Probe Meeting."

ask "about reports the investigation was ordered stopped,' he received a call 'from Willie (Hardy) who said the FBI had been to see him and he had city attorney Bob Schwartz sit in on the session. He asked me to call Bob when the FBI indicated they were coming over so the city attorney could hear what they said."

Even at this juncture, the "anticipation" of Willie Hardy was on target. There appeared to be an uncanny ability to prophesy what areas of interest the federal authorities might present. In spite of their alleged "lack of briefing" into the matter of the narc's confessions, both Wagoner and Hardy saw fit to undergo polygraph examinations on August 24th - the day that the federal grand jury met to initially discuss the affair!

Strangely, if Hardy and Wagoner were "anticipating" the issues that would be presented to the grand jury, then their speculation went beyond the scope of that inquiry. Oddly, the pair saw fit to deal with the utilization of private funds in the drug investigation, and this was a point hardly mentioned in testimony before that body. Likewise, the suggestion that they had instructed Kim to identify Bora as the gunman was an illusion resting only within their minds, for Kim was never to make that allegation. The implications clearly exist that there were areas of fear suggesting that these were matters they felt they would have to someday deal with, and in that, perhaps represented an element of truth never explored up to this point.

It is a matter of fact that this author approached Tyler's financial manager, H.V. Bryan and asked to review the financial records of the city for the period of the 1978-79 drug bust. Of special interest was the record of all private donations received during that period and in the time before the investigation. Bryan adamantly denied that any private donations had been made to support the drug investigation and declared that all of the city's financial records of that period were now on microfilm and would require a long time to research. In addition, it would be required of this author to write a letter listing the specific areas of inquiry. No books were opened to me. A denial was made when I stated that I had information that donations were recorded separately in an individual ledger. When I raised the question of why Willie Hardy was known to have in excess of \$4,000 in cash in his office while the emergency fund available to the city's police chief had been established at only \$2,000, Bryan claimed that

the amount had been raised to \$4,000 during that period. In short, it was the bureaucratic run-around in its finest sense.

The fact is that there is little question in the minds of those who were most deeply involved in the drug investigation that it was financed, at least in part, by private funding. One need only recall that Ronnie Malloch had suggested to Judge Galloway Calhoun that such private funds were available, and in fact, in hand at a time long before the drug probe. Whether or not the entirety of those funds were utilized for the purpose they were intended remains yet another point of conjecture.

Even so, it was apparent that Wagoner and Hardy had some serious reservations about the fundings of the investigation. So much so that they felt it should be covered within their polygraph examinations that were highlighted by their "anticipated" issues.

The mechanics of the polygraph were also interesting. The examination was quarterbacked by none other than the able standby, Charles Clark. In the Tuesday, October 20, 1981 issue of the Tyler Courier-Times, Clark was to state to reporters a series of interesting insights:

"Clark said the polygraphs were intended to 'go to the authorities,' to influence prosecutors in the U.S. Attorney's office to take another look at the city officials who were being reported as the targets in the federal investigation.

"It seemed to make very little difference (to U.S. Attorney Bob Wortham) that he had done this, and that is why we are going to the press," Clark said."¹³⁹

Could this be the same man who had written on September 4, 1979 to the executives of the Dallas Morning News that"....He (Howard Swindle) states that he has challenged Tyler authorities to have their undercover officers submit to lie detector tests. Any lawyer knows that a district attorney who would fall for such a ploy would indeed be foolish. Why, because the results of lie detector tests are not now and have never been admissible as evidence in any court in this state."¹⁴⁰

Now, Clark was attempting to impress the same newspaper media he had held in contempt with the results of lie detector tests that allegedly

139 Tyler Courier-Times, Tuesday, October 20, 1981, "Wagoner, Hardy Passed Polygraph Examinations."

140 Polygraph results are not admissible as evidence in federal courts, either.

cleared his clients! The turn-around was reminiscent of Clark's defense of the narcs in the same letter to the Dallas Morning News when he had stated in his Motion to Withdraw as the attorney for J.B. Smith that an attorney had to have total belief and faith in his client. In the face of all of the allegations against the narcs, Clark somehow continued to have such faith and total belief. Evidently, the question of "reasonable doubt" did not exist in daily life as readily as it does in the courtroom.

Suddenly, the credibility of polygraphs increased enormously. If they were not a valid gauge in determining the character of the narcs, now they were totally representative of the quality of Wagoner and Hardy as law abiding citizens! Even Hardy's minister, TW Maddux, was to later write, "Chief Hardy is innocent. His innocence has been verified by an independent polygraph examination. U.S. Attorney Bob Wortham was made aware of the results of this examination. He not only chose to ignore the results of the polygraph, but also refused Hardy's offer to submit to an FBI administered polygraph, presumably for fear that it would prove his innocence."

Now, those who had reportedly targeted others were the targets themselves. Those who had claimed that a polygraph would not produce valid results in determining the quality of the narcs were to claim that the same tests had irrevocably cleansed their names. Those who claimed that a district attorney would be a fool to fall for such a ploy, were to condemn the U.S. Attorney for not falling for it either.

For many, however, the news that Wagoner and Hardy had passed a polygraph examination was enough to solidify their belief in the system. Polygraphs were final, ultimately conclusive. Wagoner and Hardy could not be lying.

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Up to this juncture, little has been said about polygraph tests. Admittedly, the subject has been reserved for this moment; the point at which Wagoner and Hardy had so convincingly passed their lie detector examinations. If the public was to accept the findings of the polygraph as evidence of the pair's innocence, it was done with a collective ignorance about the mechanisms of the device and the unorthodox procedures that

are normal to its operation. In truth, the polygraph concept is based far more upon ignorance than it ever was upon fact.

The polygraph was the creation of William Moulton Marston, who, ironically, also created "Wonder Woman" of comic strip fame. It is small wonder, therefore, that the super-heroine possessed a magic lasso that commanded anyone within its coils to speak only the truth.¹⁴¹

The theory behind the polygraph is that by registering three vital signs, the mechanism will be able to indicate with four pens marking squiggles on a moving piece of computer paper when a person being tested is, in fact, lying. A blood pressure cuff is placed on the subject's upper arm and relays to the marking pen when the blood pressure rises or falls. The stress of lying often produces perspiration and wires attached to the subject's fingers monitor the electrical resistance of the skin caused by sweating. Wide rubber belts are placed around the subject's abdomen and record the rate of breathing. In theory, the stress of an untruth is mirrored in one's breathing patterns.

While the theory may have been sound, the practice of the polygraph has been far from the exacting science many believe it to be, and that it has attempted to promote itself as being. It does, however, fit well into the established attitude of many lawmen who believe that all areas of police work are exacting and the confidences shared between agencies are holy. The practitioners of true sciences have raised doubts about the validity of polygraph findings (most psychologists question the quality of polygraph findings), but to lawmen, the lie detector is an integral tool of their craft. The attitude of most lawmen was characterized during the period when FBI agents had contacted Kim and Creig in the San Antonio area. This author once suggested to a state level official that perhaps the narcs had overheard a radio call taking place between the FBI and the Drug Enforcement Administration and the content of that discussion was devastating enough for the narcs to turn over and reveal the truth. The official scoffed at the suggestion, indicating that it was ridiculous to consider it. The frequencies assigned to the FBI and the DEA were among the best

141 Marston created "Wonder Woman" under the name of Charles Moulton.

kept secrets within the discipline of law enforcement.¹⁴² The same official declared that polygraphs were the only method by which the determining factor of truth could be established. In short, the system of law enforcement was fool proof and nothing or no one could circumvent it.

To best demonstrate the pure arrogance of such positions, the misuse of polygraphs is as inherent to law enforcement as any other of its "fool

142 As a demonstration of the "best-kept secret" in law enforcement, the following list are those frequencies assigned to the Federal Bureau of Investigation and the Drug Enforcement Administration:

DEA	FBI	FBI	FBI	FBI	FBI
KHz	KHz	MHz	MHz	MHz	MHz
11.076	7.905	167.26	167.675	409.25	414.50
14.686	9.240	167.275	167.685	411.025	414.525
18.666	10.500	167.285	167.70	411.075	414.55
MHz	MHz	167.30	167.71	412.425	414.575
163.185	120.425	167.31	167.725	412.45	415.75
163.535	149.375	167.325	167.735	412.475	417.075
165.235	163.31	167.335	167.75	412.50	417.15
165.285	163.485	167.36	167.76	412.55	417.40
165.29	163.81	167.375	167.775	412.575	417.45
172.00	163.825	167.385	167.785	413.425	417.50
172.05	163.835	167.395	167.805	413.55	417.55
172.20	163.875	167.40	167.875	413.975	419.20
415.60	163.885	167.41	167.925	414.00	419.225
416.05	163.91	167.425	167.985	414.025	419.25
416.20	163.925	167.435	168.885	414.05	419.275
418.625	163.935	167.45	406.20	414.075	419.30
418.675	163.95	167.46	406.25	414.10	419.325
418.70	163.96	167.485	406.275	414.125	419.35
418.725	163.975	167.50	406.30	414.15	419.375
418.75	163.985	167.51	406.325	414.175	419.40
418.80	164.26	167.525	406.35	414.20	419.425
418.825	164.275	167.55	406.375	414.225	419.45
418.875	164.41	167.56	406.40	414.25	419.475
418.90	164.46	167.575	406.45	424.275	419.50
418.925	165.525	167.585	408.85	414.30	419.525
418.95	166.50	167.60	408.875	414.35	419.55
418.975	167.15	167.61	408.90	414.375	419.575
419.00	167.21	167.625	408.925	414.40	467.95
	167.22	167.635	408.95	414.425	
	167.235	167.65	408.975	414.45	
	167.25	167.66	409.00	414.475	

proof" techniques. In Yakima County, Washington, all rape victims are required to take a polygraph test and a refusal to do so means that the case will not be prosecuted. In many states, an iron-clad alibi is not sufficient grounds to be excused from lawmen's suspicions and the most obviously innocent parties are required to pass polygraphs. As many as one million polygraph examinations take place each year in America.¹⁴³ Of these, it is astonishingly possible that not one is totally accurate!

At best, the lie detector can only record a heightened emotional reaction to a given question. It cannot define the nature of the emotion or the absolute cause of the reaction. It is here that the "professional assumptions" begin. Polygraphers attempt to pose questions framed to induce "nervous-guilt" reactions and therein believe that this will be the only emotion invoked by the question. The registration of that response will be compared to a group of "control" questions for a final analysis.

The method incorporating "control" questions is the one used most frequently by police departments. It is here that the true science of the polygraph system falls hopelessly to shreds. What truly takes place is a form of absolute charlatanism. The polygrapher begins with a card trick that was devised by two pioneer polygraphers, John E. Reid and F. E. Inbau.

The execution of this elaborate hoax begins with the examiner carefully strapping the subject with the breath belts and the slow, painfully exacting application of the electric sensors over his fingers. The blood pressure cuff is fitted onto the subject's arm as the polygrapher reviews his work with an expression of critical observation. He then informs the subject that he has to "calibrate" the polygraph by using a standard, simple test. He brings forth a deck of regular playing cards and fans them out, asking the subject to select a card but not to reveal its identify. The subject is then commanded to answer "no" to every question posed by the polygrapher. "Is it a red card?" "Is it a face card?" "Is it a card between the numbers of eight and ten?" Each time, the subject obediently responds with "no," even though the examiner may have asked a question where that question would have been wrong. The examiner pretends to

143 "A Tremor In The Blood: Uses and Abuses of the Lie Detector," David Thoreson Lykken, McGraw-Hill, 1981.

scrutinize the movements of the needles upon the chart paper and continues his questions until the field of cards is reduced to one - and, of course, it is the correct card.

Obviously, the entire process is a trick. Moreover, the polygrapher actually uses a trick deck manufactured for polygraphers! But by now, the terrified subject is prepared to confess to anything. It is apparent that the mysterious polygraph machine simply cannot be fooled!

Such practices are commonly used to frighten a subject into believing that the polygraph is truly invincible. In reality, the process is nothing more than manipulation and subterfuge. The examiner has not exercised a tool of science, but rather has utilized a carnival-style procedure for entrapping the subject.

The reality of polygraphs can be extended to state that lie detectors work only because the common, uniformed citizen believes that they work. The average citizen scheduled to undergo a polygraph examination for the purpose of gaining employment is horrified with the experience, knowing full well that the machine has the magical ability to probe into every skeleton of his past. Yet, this is hardly the case.

In truth, few "sciences" are as fragile as that of the polygraphy. To support that posture, on June 28, 1984, I contacted Tyler polygrapher Andy Andrews of Andrews & Associates, a polygraph examination firm. My request was simple. I wanted to provide Mr. Andrews with a series of well documented facts concerning myself. These facts would be sealed in an envelope with their supporting evidence proving their factuality. I would submit to a series of three polygraphs and in each one, I would purposely lie about the information contained within the envelope. The goal was fundamentally to prove that the wonderful polygraph could be beaten.

Andrews, to his credit, was totally honest. He stated that I would be wasting my time and money in taking the tests. Of course the polygraph could be beaten. He seemed certain that the degree of my confidence would be the deciding factor in my ability to beat the polygraph results. To this day, I concur with his opinion.

The polygraph, at best, under typical non-trauma conditions, is only seventy percent accurate. The subject has a 30 percent chance of lying and getting away with it under the most elemental circumstances. As a "science," this is a delicate margin of validity. One must remember that the mere

flipping of a coin produces a 50 percent accuracy without being termed as a "science." In addition, a person accustomed to lying has his chances of beating the polygraph increased proportionately to the degree of his common use of mistruths! To support this premise, one should recall that Kim Ramsey passed a pre-employment polygraph only four days after she participated in the decision to bum her car even though one of the questions in that test was whether or not she had ever been involved in any criminal activity.

The evidence to diminish the effectiveness of the polygraph, however, does not end there. The more intelligent a person is, the better his chances to beat the device. If his intelligence is combined with experiences within the field of police work, his knowledge of the polygraph and its operation increases his chances of beating it to an astonishingly greater degree. It is the person ignorant of the polygraph and the manipulations of the examiners who issue confessions prior to or during examinations. Polygraph critic David Thoreson Lykken observes that a dummy polygraph that hummed and produced random tracings on the recording tape would be no less effective than the one actually operating and attempting to detect untruths.

Those most familiar with lie detectors have devised methods by which the device can be physically defeated. A thumb tack in the shoe is an effective method. By stepping on the tack during the control questions, a high level of stress is reflected by the machine without any outward signs of pain from the subject. Some people have beaten the polygraph by biting their tongue and producing a stress reaction. Easier yet, however, is the simple process of training one's self to repress reactions to stressful questions. Not everyone can do this, but for those who can, the results are highly effective.

While law enforcement personnel seem to place a great deal of credence in the polygraph, the fact is that the machine plays but a part in the overall results that determine whether or not a subject has lied. Examiners admit that a portion of their determination is made by their personal estimations of the subject's reactions to particular questions. They claim to be trained in the recognition of "physical responses" to stress. That is, they do not solely rely upon the indicator of the machine, but claim to have the ability to perceive visually certain reactions that are, to

them, measures of an untruth. The examiner, then, plays the role of a technician and a psychiatrist. One must wonder from this whether or not the polygrapher also plays the part of a clairvoyant.

In viewing the total frailties of the polygraph process, it is little wonder that the courts have made their results inadmissible as evidence. Yet, it is an astonishing fact that many district attorneys have made the stipulation to accused parties that the charges will be dropped if they are able to pass a polygraph examination. The results of the polygraph may not be admissible in court, but the court is often denied from hearing a case because of the results of a polygraph examination that would not be admissible within that court! The rules and conduct of justice are indeed mystifying.

There is yet another ploy used in cases where polygraphs are the prime ingredient in determining guilt or innocence. This is found in the fact that the relationship between a client and a polygrapher is confidential. It is unethical for an examiner to reveal the findings of any examination without the specific request or release of the party hiring him to conduct that test. This factor makes evasion of the truth extremely easy. A person needing to pass a polygraph can submit to one and fail it, only to go to another examiner with the hope of passing the second test. If he fails again, he can simply move to the next examiner and eventually, the subject has gained enough exposure to the polygraph system and enough experience with its operation that he is calm and prepared in the testing and subsequently is able to advise the district attorney that he has, in fact, passed a lie detector test. The positive result only is given to the authorities requesting the examination and there is no mention of the tests that the subject failed!¹⁴⁴ Under the code of the polygraphers, none of them will step forward to reveal that the subject failed the examination given by them. Almost any honest defense attorney will admit that this ploy is one of the most effective gimmicks used in the defense of a client. Keep subjecting the client to polygraphs until he passes one. The process is expensive, but it serves the desired end.

144 In the process of researching this book, 17 polygraphers were contacted and questioned about whether or not they had given examinations to persons identified by the researcher. In every instance, the polygrapher stated that it would be unethical to reveal such information and refused to respond to the researcher's questions about the tests.

There is a distinct tainting to any polygraph where the questions are submitted to the polygrapher by the person taking the test. Obviously, this occurred in the case of Wagoner and Hardy's polygraphs. Both men certainly knew the questions they would be asked prior to the time they took the test. Hardy admitted that the questions had been designed prior to the test in "anticipation" of what would be introduced to the federal grand jury. An effective polygraph (to whatever degree the polygraph can be effective) has to rely upon the element of surprise in order to be relatively accurate. The subject who has pre-knowledge of the questions and content of the test also has the ability to condition himself to the shock accompanying them. The shock element is critical to the polygraph. Without the shock, the subject has the opportunity to repeatedly review the questions and to convince themselves that their given response is true - however distorted that truth may be. Many times, the answer appears to be true to the person taking the test only because it is true within his framework of reference. In one case, a man denied committing a murder even though witnesses had identified him as the assailant. He replied with an emphatic "no" to the question of whether or not he had killed the victim. Polygraphers could do nothing less than declare that the man had shown no deception in his answers. It was not until some time later that examiners discovered that the man had "psyched" himself into believing that he had not killed the victim, rather, the bullet in his gun had done the deed.

This method of "psyching" a conditioned response to represent a truth is important when one reflects upon the replies offered by Ed Wagoner during his polygraph test. When asked whether or not private funds had been used to sponsor the drug investigation, Wagoner had answered "no." His response did not reflect any deception. Under the "psyching" concept, however, Wagoner could have brought himself to believe that since the donated, private funds had been placed into the city's general fund, they were no longer "private" in nature. With this belief, he could have answered "no" with a response indicating an honest reply. No private funds had been used.

Likewise, the distortion of truth could have been effectively manipulated by someone like Willie Hardy with his thorough knowledge of polygraphs to conclude that he had not withheld, suppressed or

covered up any evidence that the narcs had used drugs illegally. Theoretically, if he had instructed someone else to do such deeds - to withhold, suppress or cover up - then his answer could be effectively posed as "no." He had not done such things personally, and this ploy is totally workable, however theoretical, within the elusive nature of the polygraph.

Most important to a polygraph is not the device itself, rather, the polygrapher. As with any other profession, examiners vary in quality. A good examiner translates the results of a test better than one less skilled or experienced. It is always important to attorneys, therefore, that the polygrapher be "mutually agreed upon." This too, is part of the ploy. Let's get an examiner we know. One who had a tendency to be "pro-our-cause." The differences in findings between a sympathetic and hostile examiner can be alarming. This fact is evidenced by Charles Clark's statement to the press as reported on October 20, 1981:

Clark said he would certainly consider a second polygraph for Wagoner and Hardy with participation of federal authorities, if a mutually agreeable examiner is found."

There are two levels of skill to be considered when dealing with polygraphs. One is centralized upon the examiner, and the other to the guiles of the subject taking the test. It is apparent that the examiner faces a severe handicap if the subject is aware of the questions to be asked. This handicap is found within the area of the examination known as the "relevant" questions. With a series of "control" questions, the polygrapher lulls the subject into a sense of false security. The questions flow easily and present no apparent threat, and then the relevant question emerges with startling results.

"Is your name John Jones?" "Is Austin the capital of Texas?" "Are you 25 years old?" "Do you live at 123 Doe Street?" "Do you drive an automobile?" Is Jane Fonda a movie star?" "Did you kill your mother?" Bingo! The trauma of the relevant question hits home and the needles of the device respond with intense reactions to the stress.

To the prepared subject, however, the relevant questions are practically non-existent. With enough grilling, the relevant questions can be dealt with with little, if any reaction. With such preparation, none of the questions have the critical value of surprise.

No matter how much credence Clark, Maddux or the Hardy supporters wanted the public to place in the polygraph results that had proclaimed that Wagoner and Hardy had not lied, the simple fact is that the polygraph test provided negligible evidence of their innocence. The list of factors are overwhelming in favor of the allegation that the polygraphs were but political smoke screens.

(1) Hardy and Wagoner certainly knew the questions they were to be asked. They were prepared, thus minimizing the validity of the test results.

(2) Hardy was a career lawman with a well founded awareness of the polygraph and its operation. Such facts could have been related to Wagoner by Hardy with obvious ease.

(3) There is no evidence that the test passed by Wagoner and Hardy were the only tests they took. There is the possibility, in considering the code of confidentiality among polygraphers, that other tests were taken with negative results.

(4) Both Wagoner and Hardy were intelligent men, thus enhancing their ability to deal with the stresses brought by such a test. They had the capacity to reason the mechanisms of the test and to rationalize the responses that were, to them, representative of a distorted truth. Likewise, with Hardy's experience, the subterfuge of such methods as the Reid/Inbau card trick would have been known, thus ineffective.

(5) There are strong indications that at least Hardy knew the examiner personally prior to taking the test.

While no one capitalized upon it, the team of Hardy and Wagoner had painted themselves into a corner. They were now to declare that they had been vindicated by the results of a polygraph. Yet, when Cherie Paro passed a polygraph indicating that the narcs were, themselves, users, the results had been ignored. When Kenneth Bora passed polygraphs indicating that he had never sold narcotics to the narcs or anyone else and that he had not shot Matthews, the results were ignored. When a number of drug defendants passed polygraphs sponsored by the Dallas Morning News in which they accused the narcs of drug usage, the results were ignored. Now, however, when it was to their advantage, the polygraph became a useful, accurate tool of determining guilt and innocence.

Even more blatant was the claim of Clark, Wagoner and Hardy that polygrapher Wayne Baker was the most unbiased and expert examiner to be found. If this represented their true assessment of Baker, then it should be mentioned that it was Baker's firm that had given polygraph examinations to Phil Megason and found that he was not lying when he claimed not to have burned his home. It was Baker's firm who had tested Ken Bora when the findings revealed no deception when Bora stated that he had never sold narcotics. If Baker was a man with such immense expertise (which he well may be!) then why could the powers of Tyler so easily ignore the findings related to these cases?

If beauty is in the eye of the beholder, then so it also is with justice.

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It is a point of intense interest that the pre-testing information provided to Examiner Baker was curiously worded. The Tyler Courier-Times printed an account of that information on October 20, 1981.

"Baker was informed that agents Matthews and Ramsey were together with two drug suspects when 'these suspects committed a burglary of a doctor's office in Tyler. No arrests occurred, and the allegations are that the burglary was covered up. Hardy said it was most likely the suspects were testing the officers to see if they were undercover agents.

"Baker was also informed that when allegations surfaced that Ramsey burned her own car (shortly after coming out from undercover), an investigation showed there were no pertinent facts or evidence she committed the arson herself."

It is wise to examine this pre-testing information with a critical eye. The first issue states clearly that "these suspects committed a burglary of a doctor's office in Tyler."

The statement itself excludes Matthews and Ramsey from any involvement in the burglary. Any answer, therefore, would be related only to the other persons at the scene: Tim McGuire and Bill McCain. Now, the answer could be honestly given that there had been no attempt to cover up the involvement of *McGuire and/or McCain....* for Matthews and Ramsey had been dismissed from the pertinent issue of the question! Likewise, in the second issue, the statement clearly limits the participa-

tion in the burning of Ramsey's car to Kim herself? Creig had admitted that he had burned the car - not Kim! Yet, the question submitted in the pre-testing information sheets had no mention of Matthews in relation to the arson. When the testing actually took place, Baker did not mention Matthews and the answer would have been restricted solely to Kim Ramsey! Obviously, under these hampering conditions, the response would have registered as one of total honesty.

How, then, did Wagoner, Hardy, or Clark know that the question should have been worded so that Matthews would have been excluded? If it had been done intentionally in an attempt to centralize the question upon Kim alone, it represented an admission that one or more of the trio knew that it was Matthews, not Ramsey, who had actually committed the arson!

Most polygraphers agree that the wording of a question within a test is a critical factor in determining truth and falsehoods. A single word can alter the response and influence the findings. As the pre-testing information was presented to Baker, the outcome of the test was not only influenced, but bordered upon pure manipulation.

It was deemed necessary here to deal with the mystical nature of the polygraph and to reveal its frail posture within the world of science. Without such information, an unaware public might continue to believe that the passing (or failure to pass) a polygraph is conclusive to guilt or innocence. Even by reading this, you have enhanced your chances of passing a polygraph test in the future. Certainly, you will not fall victim to the infamous card trick or any of the gimmicks used by polygraphers. But the prime purpose in this presentation was to reveal that while the public was apparently impressed with Wagoner and Hardy passing a polygraph test, the truth was that they had proven little more than that they had taken the test. In terms of presenting the truth, the tests had provided nothing.

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With the federal grand jury now in session, the citizens of Smith County lived in a state of apprehension. If the authorities of the city had participated in a conspiracy, then what had been its limits? To what lengths had they gone to cover their tracks and hide those deeds that now

appeared to be so conspiratorial? It was a time when a multitude of events lost within the conduct of the investigation were resurrected for further review. The people strained their memories to recall details that might now be held in suspicion. Such recollections came easily and with their contemplation, a new wave of fear came throughout the area.

To best understand one of the prime areas of popular suspicion, one must search back through the myriad of information revealed thus far in this writing and recall that Smith County probation officer Richard Sullivan had been instructed by Judge Galloway Calhoun to conduct a private investigation into the background and activities of the narcs and determine the validity of the charges brought as a result of the drug probe. It was Sullivan, you may remember, who left the area after someone fired a shot at him in his home.¹⁴⁵

The second portion of recollection centers around the disappearance of Kallan Monigold, the young man who went downstairs from his apartment to turn out the light in his auto and was never seen again. Having these isolated instances rekindled within your mind, you have sufficient background to appreciate the concerns of some citizens when they recalled the case of Marvin McClung.

Marvin McClung was a young man in his mid-twenties when he was arrested as a suspect in the infamous drug bust of '79. He was accused of using and dealing in rather small quantities of Speed, and was known to his peers as somewhat of a loner, a person lurking on the fringes of social circles, but never drawn completely into them. Whether it was by his choice or nature, McClung never seemed to fit into any particular group, but was known to almost all of them.

Fortunately for McClung, his case was delegated to the lower stratas of the court's docket. This permitted him to witness what was happening to other defendants and it became apparent that persons with worst offenses than his were receiving probation. With time, he became confident that he would receive the same treatment and no longer feared going to prison, for that seemed highly unlikely.

145 When contacted as part of the research of this book, Richard Sullivan stated that he wanted to discuss matters with his wife before deciding whether he wanted to have an interview with this author. He was later to decline participation in the interview, stating that he wanted to leave the episodes of Tyler far behind him.

Because he had dwelled on the boundaries of the social groups of his peers, McClung had developed an uncanny ability to witness many things. He was rarely included in the confidences of others, but always seemed to be able to analyze what was happening about him and to grasp an accurate picture of the implications of each act, the secret meaning of each discussion. He developed a sixth sense of obtaining a wealth of information, and it was a part of his nature to keep such things to himself, for he was a quiet and withdrawn young man.

McClung had separated from his wife some time before his arrest, but as it was with so many of the defendants, the trauma of his arrest seemed to put his head on straight and he gave every indication of being in pursuit of a wholesome, new existence. He had even made overtures of a reconciliation and his suggestions of a reunion had not been rejected by his wife. At the same time, he was a student at Tyler's university in the field of psychology and had acquired a good working knowledge of people and the expression of their motives. Had he not been troubled with his own plight, one would have easily viewed him as a researcher studying the reactions of his peers to the nightmare that had encompassed so many of their lives.

In February of 1980, McClung had kept a scheduled appointment with his Tyler attorney, Rex Kirby. In that meeting, he displayed a bright attitude that accepted his pending penalties and admitted the extent of his wrongs. Kirby was pleased with his client's attitude and found satisfaction in McClung's rational approach to his problems. Finally, things seemed to be on the upswing for the young man, and Kirby discovered that there was something very likable about the youngster. It was during this meeting that McClung informed his attorney of a startling bit of news. On the following Saturday, he related, he had an appointment to meet with the court-appointed investigator, Richard Sullivan. When Kirby inquired about the nature of that meeting, McClung was almost secretive. "I'm going to tell him what happened to Kallan Monigold," he replied.

The combined forces of the region's law enforcement agencies had not been able to discover the fate of Monigold, but Marvin McClung apparently knew enough to have scheduled the meeting with Sullivan. Certainly there was no other motive for the meeting. McClung was more than confident that he would not be dealt with too harshly by the courts,

so there was no need to make points with Sullivan. After all, there was no guarantee that he would be included in Sullivan's caseload. Kirby's impression of McClung's statement was that it was made in total sincerity - the young man truly knew something about the Monigold disappearance.

Of all those arrested in the drug bust, McClung had undergone one of the most terrifying experiences. Shortly after his arrest, he was questioned by Creig Matthews. Matthews took him to the police department and started grilling him in the interrogation room. It is not certain what Matthews thought McClung knew, but it was apparently of enough significance to place him under severe questioning.¹⁴⁶ When McClung stubbornly refused to crack under the pressure Matthews was exerting, the narc left him in the interrogation room and entered the vice office where Mike Lusk saw him slowly remove his service revolver and extract all of its bullets. Lusk followed Matthews back to the interrogation room and saw him place the weapon at McClung's temple, asking him again if he wouldn't reconsider in his refusal to tell all that he knew. McClung still refused. Finally, in frustration, Matthews ordered him to leave the police station as quickly as he could. McClung had posted bond and was free to leave, but his departure was one of fear and anger.

It was many weeks later when McClung scheduled the meeting with Sullivan, and the probation officer was eager to learn what the defendant had to say about the intriguing Monigold case. The time had passed slowly. Perhaps too slowly, for Sullivan was never to learn what McClung had intended to reveal.

On a cold winter morning, the body of Marvin McClung was discovered behind the wheel of his automobile near Lindale, Texas. A hose was affixed to the exhaust pipe of his car and a suicide note was placed neatly on the seat. The note was written to his estranged wife and began with an apology for what he was about to do.

Because there had been a suicide note, no autopsy was requested on the remains of Marvin McClung. Judge Billie Garrett, the Lindale Justice of the Peace, was to later state that she had attended seminars wherein the

146 When asked about this incident, Creig Matthews was to claim that he couldn't remember what it was that he had hoped to learn from McClung. He did not deny placing the gun at McClung's head, but claimed that the reason for it had been lost to his memory.

physical appearances of victims of asphyxiation were discussed, and from that experience she felt she could accurately determine the cause of death. There was no test performed to reveal if McClung's blood contained narcotics or alcohol. There was no examination of the body specifically to seek puncture wounds within its tissue. There was no test to evaluate the carbon monoxide content of the lungs. There were no tests at all.

The young man who had been so pleased with the knowledge that his future would not be seriously damaged by the courts now had reportedly killed himself. The man who had begun an effective campaign to be reunited with his wife was not listed as a victim taking his own life. The young man harboring a terrible secret about Kallan Monigold was to invite death before revealing that secret to Richard Sullivan. With the news of McClung's death, protests were formed within the groups of the drug defendants. They marched in the city square with black arm bands to indicate their unity in the belief that there was much more to McClung's death than the officials were willing to admit. The youthful defendants called on McClung's parents, urging them to demand an autopsy. Yet, there was nothing done. Marvin McClung was buried, and with him went what was perhaps the truth of the Monigold mystery.

If area officials were tight-lipped about the McClung case, it was not to change with the passing of the years. Four years later, this author began seeking information about the young man's death. Inquiries were made of the prime agencies, but with the same result. The records of the Smith County sheriff's office were closed and few within the department were willing to discuss the matter. It had seemed such an insignificant event that most admitted that their memories no longer stored information about McClung or his untimely death. The district attorney's office was even more secretive than the deputies. Always, there was the shrug of indifference and the statement that the files of cases, whether closed or not, were not open for public scrutiny. The bureaucratic game continued until it could be tolerated no longer. I called upon acting Smith County Sheriff, Frank Brunt. Brunt stated that he was not aware of the department's policy in such matters and referred me to a lieutenant in the detective's division. Act One in the bureaucratic continuum. The lieutenant considered my request for a long moment and was unimpressed with my argument that the McClung case was, after all, a closed one.

Finally, he informed me that I would have to write a letter to the district attorney's office requesting permission to review the file. Act Two.

The letter had been written, delivered to the sheriff's department and duly forwarded to the district attorney's office. Two weeks passed without a reply. Obviously, enough time had passed for some action to have taken place, and I inquired again at the sheriff's office. The lieutenant politely informed me that he hadn't heard from the DA's office, thus his hands were tied. I stalked from his desk to the elevator where I punched the button to the fourth floor where the district attorney's office rested. Once there, a kindly secretary informed me that the current (1984) district attorney, Jack Skeen, was in his office and she would advise him that I was waiting to meet with him. Within minutes, she returned with a flood of apologies. Mr. Skeen was busy and couldn't see me at the moment: Would I like to make an appointment for some later date? I had her place my name on her calendar at a date and time her schedule indicated Skeen would be free. I left the DA's office knowing that I had just endured Act Three.

I was standing in the hallway in front of Judge Phillip's chambers in the Smith County Courthouse when Randy Roberts, the assistant district attorney, moved slowly toward me. He is a large, ponderous man and his face was filled with the furrows of concern. "What's your name?" he asked of me in chilly tones. I did not reply, but merely handed him my business card. He viewed the card with a haughty expression, obviously reading my name and the word "author" beneath it. Handing the card back to me, he stated in an icy voice, "I thought so." He turned and walked away.

Not long after this strange encounter, I received a call from Roberts at my office. He informed me that he would be calling the Attorney General's office in Austin to ask for an opinion about whether or not I would be permitted to view the case record of Marvin McClung. I replied that such a process could take weeks and that I didn't have the luxury of wasting so much time. Roberts assured me that he would place a telephone call to Austin and get an opinion from them. It shouldn't take long at all, he stated. He could even be back with me that very afternoon. Meanwhile, he informed me, it would not be necessary for me to meet with the DA about the matter. My appointment would be canceled.

I had experienced Act Four - the final act in courthouse politics. The

door had been forever closed on my chances of reviewing the McClung file. I never heard from Roberts again.

Even in the absence of the file, several factors of the McClung case became significant. While sources within the sheriffs department assured me that the handwriting on the suicide note had been compared to samples of McClung's handwriting by experts and found to be the same, McClung's brother claimed something quite the opposite. The brother was well familiar with Marvin's style of writing, and maintained steadfastly that the suicide note had not been written by Marvin. Without the file, it was impossible to support either claim.

It is equally important, however, that McClung's attorney, Rex Kirby, was among those who failed to believe that McClung committed suicide. The demeanor of his client on the day of his death was not that of a man displaying the depression or symptoms leading to self destruction. Kirby is adamant to this day, stating, "I will go to my grave believing that Marvin McClung did not commit suicide."

A host of former drug defendants support Kirby's posture, and hold fast to the belief that there was much more to McClung's death than was ever revealed by the authorities.

It is also a viable belief that Richard Sullivan had discovered little new evidence in his investigation. He had retraced the tracks of the previous investigator, Dennis Price, and had not spent sufficient time on his probe to have uncovered anything new or startling. If he had, certainly he would have reported it immediately to Judge Calhoun. Theorists in the McClung case believe that the information Marvin would have related to Sullivan about the Monigold case was the prime cause of his death, and that in the fear that something had already been told to Sullivan, the gunman was dispatched to frighten him away from his assignment. Such a scenario is admittedly the product of the theorist's concept of the event, but speculation was rampant in Smith County during this period and theories were as credible as most of the reports officials related as fact.

To make the circumstances of this period even more bizarre, it was a firm belief in the minds of investigators and Sullivan alike that the man firing the shot into the probation officer's home was identified. Ballistic tests indicated that the weapon used to fire the shot was an exotic one with a specially bored barrel. The assailant was believed to have been a recent parolee from the Texas prison system. Even though it was felt that

his identity was known, the question remained whether or not the man had been hired to make an attempt on Sullivan's life. An effort was launched to locate him and take him into custody. Like Monigold, however, the elusive gunman disappeared from the face of the earth and has never been located unto this day.

The collection of strange events surrounding Marvin McClung's life and death stirred new controversy within the region, and was but another area of speculation bringing whispers from a frightened public. Upon hearing of McClung's suicide, Matthews was to declare, "Damn! I didn't think I scared him that much!" Marvin's brother, however, firmly states that the episode of Matthews placing the weapon to his brother's head was not devastating enough for Marvin to have taken his own life. "Marvin was stronger than that," he maintains.

The result of the investigation and secrecy surrounding McClung's death assigns it to the arena of public doubt. If his death was legitimately a suicide, one has difficulty in determining a reason for it. Closed files and the jealous guarding of facts deny any pursuit of the truth. Without the cooperation of agencies capable of revealing facts to a doubting public, such cases will always be delegated to the suspicions of those who hold the profile of law enforcement in constant question. The attitudes of agencies withholding data only serves to perpetuate such opinions. The drama of Marvin McClung rests with that of Kallan Monigold in an unsolved circle of doubt that leaves one to wonder today the same questions that haunted Smith County residents in that turbulent period after the drug bust. How far did the conspiracies of the drug bust go? To what lengths did those involved go to conceal their crimes? That, too, is a question that will remain unsolved. Perhaps the secret of McClung's death rests within the files of one of Smith County's agencies.... for those are places where many secrets lie.

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It had been almost a month since the Bora evidentiary trial. The fact that Smith County sheriffs deputies had reputed the word of city officials and Tyler policemen had not been forgotten. Now, deputies were avoided by city lawmen with obvious determination. Rumors flowed that adminis-

trative orders existed within the police department demanding that policemen not consort in any form with members of the sheriffs force. They were not to be seen conversing. There would be none of the casual moments over coffee at the Hot Biscuit or at the popular coffee spots about the town. They were not to be seen in their most private conversations speaking with deputies or representatives of Smith's personnel. J.B. himself was shunned within the halls of the courthouse, and the chasm of communication had now become a canyon of unrivaled dimensions.

On one occasion, Smith had the need for the services of Doug Collard, the fingerprint examiner at the Tyler Police Department. Always before, it had been a matter of cooperative routine. Collard's expertise was available to the brother agency as the course of an unspoken reciprocity. Now, when he appeared at the department asking Collard's assistance in a case, he was informed that his request would have to be in written form and approved before Collard would be made available to him. No, the rapport between agencies was not all that it should have been.

Within the mystic code of law enforcement, it was believed that the mutual protection and support of all lawmen should be extended to any limits. Such limits should, most reasoned, include the supporting testimony in cases of any magnitude. The fact that sheriff's deputies had not been supportive of the Tyler Police Department and the prosecutors of the DA's office was an act of inexcusable proportions. Now, the debt would be demonstrated in the chilly atmosphere existing between Smith's force and every other agency within the city/county system. It was a debt that must be collected, and the wheels of that retribution were put into immediate motion with J.B. Smith being the prime subject of the project.

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It was a routine matter. Detective Tony Richardson had been dispatched to the district attorney's office to retrieve some photos that belonged in the case files of the sheriffs office. They had been used in presenting the prosecution's case, but now J.B. Smith wanted them returned to complete the records of his department. A cooperative clerk had delivered the stack of photos and Richardson had taken them back

downstairs to the basement of the courthouse where the sheriff's department was located. There, he sat at his desk shuffling through the pictures, making certain that they were all there. Suddenly, he frowned and pulled two photos from the stack. These did not belong to the evidence photos he had requested. No, these represented another investigative matter indeed.

Within minutes, Richardson was standing before the desk of Sheriff Smith, placing the photos before him. Richardson explained the source of the pictures and offered the opinion that the sheriff would certainly want to see them.

"This is the gate leading up to my house," said Smith with confusion. The photo revealed the gate and the sprawling countryside in the background. The second photo portrayed Smith's county vehicle moving toward the photographer with the highway identification sign "Texas 14" conveniently in focus. Smith knew that he was the image behind the wheel of the vehicle and felt his temples throb with the pulse of anger. "Get England in here," he commanded.

With Ron England at his side, Smith gathered the photos and led his deputy toward the elevator. At the fourth floor, they did not pause at the receptionist's desk, but angrily stormed into the office of Hunter Brush. "Get Carver in here," demanded Smith.

Brush appeared confused, but called for his investigator to report to his office. In a matter of seconds, Carver joined them and Smith tossed the photos onto the desk in front of the district attorney.

"Tell me what the hell's going on," Smith ordered.

Brush's face crimsoned as he counterfeited a smile. "Now, J.B.," he faltered, "this isn't what it looks like."

Smith ignored Brush, turning his attention to Carver and snarling, "Why the hell are you investigating me?"

Like Brush, Carver grew nervous and shook his head slowly. "I work for him," he responded, motioning weakly toward Brush.

"J.B.," repeated Brush, "this isn't what it looks like."

"It looks like you're trying to do a number on me and I want to know why," countered Smith. "What about it, Carver? Why are you taking pictures of my place? You're the only one here who'd do something like that. Now, you tell me why!"

I work for him," echoed Carver.

Smith gave the investigator a look of disdain and turned toward Brush. "What about it, Hunter?"

Brush widened his smile. "Now, just calm down, J.B. Like I told you, this isn't what it looks like."

"Not what it looks like!" gasped Smith. You're out at my place taking pictures of my front gate and of me going to work and it's not what it looks like? What it looks like is that you're trying to build a case on me and I want to know about it!"

Brush gazed nervously at the photos, fingering them gently as if to relieve the tension of the moment. "There's nothing to know," he answered.

Smith glanced toward England with an expression of frustration. "This is how it's gonna' be, huh?" he asked. "Everyone's gonna' deny everything. He works for you," he offered sarcastically, nodding toward Carver, "and you're saying that it's not what it looks like. In other words, you're not going to tell me anything."

"I did tell you something," snapped Brush. "I told you that there's nothing to know about it."

"I want both of you to know something then," began Smith. "You can dig into my public life all you want. That's your right and I don't give a damn about that. But you start digging into my private life and I'm going to react. That's not a warning, it's one helluva promise!" He turned toward Carver, pushing a finger into the man's chest. "And if I ever see you around my place, by damn, I'm going to break your fucking neck!"

A silence settled upon the scene then as Smith realized that the heat of the confrontation had reached tones of a level higher than he had wanted. As it became apparent that Brush and Carver would not respond to his anger, Smith issued a final glance of wrath in their direction and turned to England, muttering, "Let's get the hell outta' here." The door slammed noisily behind them.

The elevator of the Smith County Courthouse is notoriously slow and in that moment, Smith wanted to leave the domain of Hunter Brush as quickly as possible. He noticed his fists clenched in rage and attempted to soothe himself with calming thoughts, but to no avail. "Come on, dammit!" he hissed at the elevator and then resurrected the thought of Carver

photographing his private moments. "This makes me so mad I could kill that sonuvabitch!" he snarled to England.

England rested his eyes upon the photos in Smith's hand and nodded his understanding. It was certain that Brush was involved in a probe of the sheriff and England knew that above all things, Smith hated for anyone to lie to him.

"I know," he replied softly as the faint bell of the elevator sounded, announcing its arrival at their floor.

Upon reaching his department, Smith issued orders that Charles Carver was persona non grata. He would not be permitted to review any of the department's case files or receive any of the courtesies he had long enjoyed. Carver would be exiled from the sheriff's department and J.B. closed his office door to seethe with the thought of the encounter.

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It was Socrates who said that "Anger is the wind that blows out the light of reason," and with time, J.B. Smith slowly conformed to that philosophic dogma. It was all right to be angry with Carver, but to banish him from the department was unprofessional. It had been a reactionary thing, and Smith regretted it. Within hours of the heated meeting, he rescinded his order and lifted the restraints against Carver.

With the passing of days, tempers had mellowed and Smith had resigned himself to do something he did not relish. It was an act he did not want to do, but knew that it was the best thing to be done. It was the most manly and proper thing to do.

Since the confrontation, Smith had noticed prosecutors turning quickly away with his approach. Timid clerks from the DA's office conveniently engaged in conversations in his presence, pretending not to have noticed him. Prosecutors now avoided contact with the department, when before it had been a source of their pre-trial information. Combined with the new policies of alienation by the police department, the attitude of Brush's office reduced the communication of Smith's agency to an alarming low.

Now, Smith would return to Brush and attempt to smooth the troubled waters. He would humble himself to serve as the peacemaker so

revered in the faith. Perhaps such an act would be the singular thing Smith could do that would not be interpreted as wrong.

If there was anything to be gained from a meeting with Brush, Smith hoped that it would elevate his department from being the orphan of the agencies. Circumstances now resembled those times of anemic information prior to the drug bust when the sheriffs department had been the last to know that a major drug bust was eminent. Smith knew that communication was the most integral part of his department's function, and now his office had become the bastard in the family of law enforcement agencies supposedly dedicated to a common cause.

It would be a painful mission. Smith sighed deeply and resolved that he would make his best effort to ease whatever antagonism remained between him and the district attorney. He recognized that a continued silence would not serve any purpose other than to widen the chasm of their hostility. It was clear that neither man liked the other, but they had been elected to their positions, and it would be necessary for them to cooperate to some degree if they were to gain any level of success.

He constructed in his mind the scenario of the meeting. He would sit down, face his antagonist, and speak in calm tones of the problems they had encountered and offer what could serve as solutions. He promised himself that he would do so. He would not be goaded into another confrontation.

The secretary was cordial and led him through the reception area to Brush's office. The thin DA glanced upward and offered Smith a seat with cold, exacting tones. There was no smile of welcome or the offer of a handshake. The sheriff complied and politely inquired if he had interrupted anything of importance. No, Brush assured him, but turned over some documents on his desk as an obvious affront to his guest.

"What can I do for you?" asked Brush.

Smith leaned back, crossing his legs. "I think we need to have a talk, Hunter," he began.

"Okay," replied Brush. "Talk."

Smith nodded, objecting silently to the demeanor of the DA. "Things are going to hell between your office and mine," he observed. "It's getting worse every day. What it boils down to is that just because you and I have our problems, it shouldn't affect the job that both of us have to do."

Brush protruded his lower lip and shrugged. "We're doing our job okay," he replied.

"No, you're not," argued Smith. "One of my men called for a warrant last weekend and was told to wait until Monday. That's not doing your job. That's just keeping this war between us going at full hilt."

Brush flashed his clip-on smile. "We're doing enough of a job that we're not always able to get to everything. Maybe we had something going at the time that was bigger than the warrant your man wanted."

Smith held up his hand with the palm facing Brush. "Look, I don't want to hash over specifics. That was just an example. Hunter, I wanted to talk to you today because I think we need to bury some hatchets in order for both of us to do a better job. Until we can turn away from our personality problems, we can't do everything we need to do, and we certainly can't be of much help to one another. I think that even you would agree with that."

Brush snorted his disapproval. "I don't have any hatchets to bury," he stated.

"For Christ's sake," moaned Smith. "How can you sit there and say something like that, Hunter? There's talk all over the courthouse that I'm doing something wrong and that your office is out to get me. You can call them rumors if you want, but they keep coming at me. With all of that going on, how in the hell can you say that you don't have any hatchets to bury.?"

"We're not in the business of going out to get anyone," Brush informed him coldly. "The people who find themselves in trouble here get themselves here without any help from us."

"Look," Smith began with a sigh to control himself, "it's obvious that these rumors are coming from up here and maybe if we clear the air between us, it'll all stop. That's all I wanted to do today, to just try to solve some things we have going and maybe folks would see that we're not out to cut each other's throat."

Brush leaned back and loosened his tie. "How do we do that?" he inquired.

"Hell, I don't know," confessed Smith with irritation. "Maybe by just leveling with each other and finding out what it is that makes us go for the jugular vein."

Brush flashed his smile again. "Then you tell me what it is."

"How in the hell would I know? Maybe we're just not communicating enough. Maybe it's some chemistry between us. Maybe you don't like the way I part my hair. I don't know, Hunter, but it's sure as hell something!"

Brush nodded with a sigh. "Well, if you don't know, then we don't have much to talk about, do we?"

"Dammit, Hunter! We have to start somewhere! I don't think I really dislike you. I really don't. I don't always like the way you do things up here, but what the hell, this is your department and I have mine. I'm sure you don't like everything that I do!"

"I certainly don't," replied Brush.

J.B. shook his head with frustration. "Hunter, this attitude isn't getting us anywhere. It really comes down to the point that we have to work together. You can attack me all you want, that's all right. I can stand the heat. But what I don't want is for my men to be treated like they were bastards at a family reunion."

Brush's face hardened. "Then teach your men to be credible witnesses and maybe they'll be treated better."

The sheriff clenched his jaw with the announcement. "That's what it's all about, isn't it, Hunter," he stated. "You're still having a wild hair over the Bora thing. We didn't back you up and now we're paying the price."

Brush leaned upon the desk now as if accentuating his point. "That wild hair is just that you don't send your men into court with instructions to undermine us!"

"That's a bunch of bullshit and you know it!" charged Smith. "There wasn't one person in my department who was told to do anything but tell the truth!"

"That's your story," countered Brush.

"There's no use trying to talk to you," stormed Smith, rising to his feet and moving toward the door. "You've got your mind made up about a bunch of crap, pure crap, and no other can change it!" He felt the cold door knob in his hand and paused for a moment, closing his eyes and struggling for the composure he had promised would be the content of his conduct. "Brush, how come we can never get along?" he asked softly.

Brush continued the chilling quality of his voice. "Because you allowed your deputies to lie on the witness stand," he replied.

It had gone past the limits of his control and Smith turned quickly with a rage burning within his eyes. "Hunter, you're a crazy sonuvabitch," he stated, and closed the door behind him.¹⁴⁷

Within his office, J.B. considered the comment from Brush. He recalled that his men had challenged the posture of the prosecutors in the Johnny Allen Green case. His men had not agreed with the tale of the narcs concerning the shooting. His men had opposed the testimony of city officers during the Bora evidentiary hearing. Yes, the department had been a thorn in Brush's side. He thought of such things and wondered if he would now be substituted for Ken Bora - wondering if he would be the next goat on the power structure's sacrificial fires.

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As the days passed, the rumors of misconduct on the part of J.B. Smith increased. The rumors now included the information that Smith could be expected to be called before the Smith County Grand Jury to answer inquiries into alleged improprieties. With each day, the gossip increased until it was apparent that somewhere within its illusive structure rested an element of truth. It was, at last, on a Friday morning that radio station KTBB revealed that Sheriff Smith was the subject of an official misconduct complaint that would be reviewed by the Smith County Grand Jury when it convened on the following Thursday. With the division between the sheriff and the district attorney widened greater than ever before, it was impossible for Smith to go to Brush and inquire about the nature of such allegations. The situation infuriated Smith, for it was one thing to have the people whispering in small clusters throughout the courthouse and quite another for a radio station to expose the rumors to the populace of the region. With the news being issued to everyone, no one had contacted Smith for his comments and he knew that the source of such "leaks" had to be coming from within the district attorney's office.

147 The Dallas Morning News, Thursday, December 10, 1981, "DA, Suspended Sheriff Testify In Case," and official court transcripts of the J.B. Smith civil suit in the court of U.S. Judge William Wayne Justice reveal parts of this reported conversation. The remainder of the discussion was gleaned from the memory of J.B. Smith.

It was enough to make Smith bitter with the media-at-large and he responded with his anger when Glenn McCasland of the Tyler Courier Times became the first newsman to seek Smith's reaction to the rumors of charges. "I'm sick and tired of being booted around all the time by the media," stated Smith. "I will be at the grand jury Thursday. So if anyone has any charges against me, they need to get it on or shut up and let me go about my job of law enforcement." ¹⁴⁸

Armed with Smith's statement, McCasland contacted Hunter Brush to seek an official comment about the matter. The DA responded curtly. "Smith can appear before the grand jury on his own and talk all day if he wants," said Brush, "but I'm not calling him."

McCasland was persistent, asking if charges against Smith would eventually be filed. In Brush's response, the key was turned deciding Smith's future. "We don't discuss that sort of thing before a grand jury meets," said Brush. "It is my policy never to embarrass a citizen in advance of a grand jury proceeding. I just have no comment on the matter."

For one who had no comment, Brush had given ample signals to the fact that J.B. Smith was indeed in trouble.

Throughout the weekend, additional reports by Mike Edwards of KTBB revealed that the sheriff was being investigated for possible misuse of county equipment and the allegation that he had attempted to have charges dismissed for a particular person whose case was pending before the courts. The latter allegation was obvious to Smith. The DA had learned of his trip to Dallas to meet with the executives of the Skaggs-Albertson food chain.

Earlier in the year, the beautiful director of Tyler Junior College's Apache Belles drill team and Dean of Women had been apprehended at Tyler's branch of Skaggs-Albertson. Anna Carpenter was a well known personality throughout the region and highly respected for her many achievements in leading the Apache Belles to new levels of national prominence. On this date, however, store officials and security personnel discovered in her purse a bottle of cologne. Arrested and booked, her case was not unlike hundreds of others filing through the police department yearly, but in her instance, it was to be highly publicized. Somehow

148 Tyler Courier-Times, July 7, 1981, "Smith Ready To Answer Questions."

her stature within the community did not fit well with the charge of shoplifting.

Within hours after her arrest, Smith was contacted by the operator of a health spa who appealed to him to do something that might assist the woman in finding relief from her problems. The man had planned on hiring Carpenter and feared the publicity might damage their pending arrangement. Soon, top level personnel from the college began calling with the same plea. Anna Carpenter had made great contributions to the institution and because she had made one small mistake should not be grounds for the destruction of her life. Anyway, the police department was not relishing in the sun of its finest days and some even questioned whether or not the Carpenter case could be included in the framework of the frames already known to have been practiced by some of the department's officers. It was no more in the character of Anna Carpenter to shoplift than it was in the character of some of the affluent drug defendants to have been involved in narcotics. Many could not help but be suspicious, for the feelings of doubt and apprehension ran deep.

Smith was not above such speculations, wondering if Carpenter's name had not fallen into some area of disfavor within the police department and that her arrest was the measure of her retribution. After all, he was in the midst of such an insurrection himself. Yes, he agreed, he would see if there was anything that could be done.

Traveling to Dallas, Smith met with the security director of Skaggs-Albertson to see if anything could be done to salvage the woman's reputation. Quickly, he learned that the policy of the firm was to never drop charges against shoplifters. The policy was iron-clad and could not be altered under any circumstances. Smith admitted that he was on an errand of mercy at the request of some of his constituents, and the security people seemed to understand. They had been former lawmen themselves and knew the workings of the job. As always, there was the manly banter between them.

"I hear she's a real cutie," offered the security officer.

"Yeah," replied Smith, knowing the meaning of the innuendo. "Is this where the buck stops?" he asked. "Is there anyone else I should see to make sure that I have the final word when I go back to my folks?"

"There's my boss," answered the security director. "You can talk to

him, but I don't think it's going to do you much good."

The vice president of the firm was even more adamant than his security director. Skaggs-Albertson would not drop the charges. There were absolutely no circumstances under which the firm would yield. Smith received the news with the resignation that now, at least, he would be able to tell the people in Tyler that he had gone to the limits in attempting to serve them. He had done all that he could.

In Smith's mind, he had not interfered with the conduct of the courts or the administration of justice. His action had been one of simple benevolence. Every politician recognizes that there are favors to be done - old favors to be recalled. As he drove back to Tyler in the state of dejection, it did not occur to him that the beauty of Anna Carpenter and his reputation as a womanizer would someday be combined into rumors of favoritism and invented tales of sordid proportions.

The incident was now being resurrected for exposure to the grand jury and Smith knew its implications. It reeked of preferential treatment and the lifted eyebrows that suggested the favors that were to be returned for his services.

There was now an urgent need to know more about his problems. He visited the law library of the courthouse and thumbed through volumes in search of the laws governing official misconduct. Finally, he discovered Chapter 39 of the Texas Penal Code and read through its contents. Generally, the charges would be misdemeanors, with the exception of one provision ranking as a third-degree felony. That section provided that the taking or misappropriation of "....anything of value belonging to the government that may have come into his custody or possession by virtue of his employment, or secrets it with intent to take or misapply it, or pays or delivers it to any person knowing that such person is not entitled to receive it."

Smith frowned with the review. What had he misappropriated? He thought for a long moment, trying to analyze the workings of Hunter Brush's mind. If he could determine anything from the analysis, it would be that Brush would certainly seek the felony charge. At last, it became too complicated for him and he closed the book with a sigh of surrender. He had learned long ago that the worst fears are those centered about issues that contained the greatest amount of unknown facts. There could

be nothing gained by apprehension at that point. He would have to go about his business and let time take care of the rest. His mother had once related that, "Worry is like a rocking chair; it gives you something to do, but it doesn't get you anywhere."

No, he would not worry for the moment. He simply didn't have time for it.

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Private security services are expensive. Apartment complex managers had learned long ago that to protect their hundreds of residents, it required a security man living on the premises. To combine the cost of an apartment with a livable wage made security a prohibitive venture. Thus, they had settled upon a convenient compromise. Off-duty lawmen could serve in the capacity of security personnel, having their night hours free for resident complaints and only a rent-free apartment would be required. The cost of security could be reduced enormously. Literally dozens of officers from the ranks of the Tyler Police Department and the sheriffs office had partaken of this boon and had enjoyed rent-free quarters in return for their efforts as apartment complex security officers. It was not an official position of sorts, but it was generally agreed that they would respond to resident complaints and give the secure knowledge to all that they were present in times of need. To have the police or sheriff's unit parked in the complex parking lot was an additional deterrent to crime, and the arrangement was satisfactory to the many managers who experimented with it and had met with no objections from law agency administrators.¹⁴⁹

Within Smith's framework of reason, if the arrangement had been enjoyed by other lawmen without protest from their superiors, why shouldn't he be permitted to share in such benefits? The manager of Tyler's Casa de Oro Apartments had offered him an apartment in return

149 The managers of 12 Tyler apartment complexes admitted to having the security-for-free-rent agreement, but declined to give the names of the officers involved.

for his services and the offer was indeed a welcome one. Since his divorce, Smith had been living in a small apartment located over the Smith County Jail. It was humiliating for the sheriff of the county to be so reduced, but the divorce had been a devastating one for Smith and he had been lowered even to the point of driving an old, worn vehicle borrowed from one of his deputies. With the offer from Casa de Oro, he would again have an address of his own and could escape the constant affairs of the office. Without reservation, he accepted.

It was no secret that the apartment would be shared from time to time with the woman he was dating at the time. Smith was not one to close his life to the inquiries of others. The attitude of such matters being "his own business" dominated his reason and he took little effort to conceal such matters. His sometimes faulty judgment precluded that he had nothing to hide or any reason to hide it. He was soon to learn that he would have been better off if he had practiced the art well known to others and secreted all the workings of his private life.

For a while, the woman he had known moved from the area, relocating in Shreveport, Louisiana. Theirs had been a close relationship and Smith kept in contact with her with telephone calls and an occasional journey to the city resting on the Texas-Louisiana border. It was his relief from the ardors of his week and he looked forward to such trips, knowing that they would provide those rare escapes from the turmoil and demands of his position. The woman was always happy to see him, and in the life of a lawman, that is a rare event. Sometimes, he called from his telephone at the sheriff's office and listened to her accounts of encountering a new life in Louisiana. When visiting, he drove his county car, never considering the act as being a tort to his post. More often than not, he received messages on the special frequencies of its radio and phone messages while en route. The vehicle was his traveling office, and without it, he would be unavailable to the many instances where his decisions were necessary. The vehicle held other benefits. As an official car, it gave him the immediate identification as a lawman. On one occasion, it served him well when he stopped to assist a highway patrolman arresting a drunken driver. Yes, Smith used the vehicle, but listed it among the fringe benefits of the job that consumed every hour of his day. If he was to be on constant call, then he should be afforded the tools by which to perform his duties. At least,

so went Smith's reasoning. He could further justify the act by noting that the use of the vehicle was not precedent-setting. Sheriffs before him (and after him) would use the county vehicle for personal purposes, and he saw little reason why he should be any different. It was the Republican form of reason stemming from the Nixon era - "He did nothing that others had not done, he just got caught doing it."

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Twelve days following the confrontation with Hunter Brush, J.B. Smith was indicted by a Smith County Grand Jury on eighteen counts of official misconduct. Among the allegations was his use of a rent-free apartment in return for security services to the complex. Even the most naive of Smith Countians were to chuckle with this particular count of the indictment, for it held bizarre implications.

A condition of the law of Texas is that in order for misconduct to be charged, the defendant must have gained some personal profit from the issue in question. The Smith County Grand Jury, in all of its wisdom, chose to form an alliance with the forces of Hunter Brush and accept a reasoning that would reign as one of the most unique distortions of logic ever conceived within a legal system. It could not be charged that Smith's personal profit was the rent-free apartment itself, for that would clearly legitimize other indictments against all area lawmen enjoying the same benefits. No, the "personal profit" would have to be found elsewhere. In the case of J.B. Smith, the profit was listed within the indictment as the securing of a "happy girlfriend." J.B. Smith's personal profit was that he had obtained a happy girlfriend from his arrangement to secure a rent-free apartment in return for security services!

Among the other allegations within the indictment was the more serious charge of an attempted arson allegedly committed by Smith. This event centered around an act of intended retaliation against a man who had, at one time, stolen a Smith County patrol unit and taken it to a secluded place where he burned it past the point of repair. Smith had always fumed with the recollection that the offender had been given a probated sentence for this act, and he held the workings of the district courts in lower esteem after that experience. On one icy winter morning,

Smith was informed that the personal vehicle of the culprit was abandoned on a highway near Tyler, apparently immobilized by the treacherous weather. Smith had gone to the scene with deputies and took with him a container of gasoline. Methodically, he poured the gas over the culprit's vehicle and had considered igniting it. As a non-smoker, Smith had no matches. His accomplice/deputy was also without a match. It appeared almost as an omen. Smith quickly decided not to bum the vehicle, but indicated that the man would surely smell the gasoline and know that he had come within inches of a fiery retaliation. Smith abandoned the plot borne of his anger, and returned to his office.

Eighteen days after his first indictments, Smith was again charged by the Smith County Grand Jury. This time, the charge was retaliation against Hunter Brush's investigator, Charles Carver. Smith had threatened bodily harm to the investigator, and the grand jury robotically responded with another indictment.

Smith was tempted to smile with the announcement of the charge. To his mind, it was an unmanly act for Carver to have revealed the threat issued within Brush's office that day. Admittedly, he had threatened Carver..... "I'll break your fucking neck" was most certainly a threat. But it was a promise issued in anger between men, and men did not snivel to grand juries over such matters. Men handled incidents of anger in more masculine ways, and Smith could not conceive of Carver resorting to the grand jury for his vengeance, if indeed, that was his motivation.

From the day the indictments were submitted from the grand jury, Smith maintained that they were retaliations from Brush for his deputies' testimony in the Kenneth Bora cases. Had they been aligned with the DA and supported the posture taken by the prosecutors, he claimed, the cases against him would never have been brought before the grand jury. To support his claim, Smith could show that many of the charges had been revealed to the public by the local newspaper and on various radio stations during the 1976 election campaign. His opponent at that time had dredged forth all the incidents and they had been used as political attacks with full media coverage. Now, the charges evolved, in part, around incidents that had taken place four years earlier. Why would it take so long for them to become indictments if they were not the reflection of some official retaliation? Smith felt he could answer the question for him-

self. Before now, he had not offended anyone in power to such a vast degree.

There had been the humiliation of surrendering to authorities and posting bond. It was an act symbolic in many ways, but degrading nonetheless. The bond was minimal and the proceedings brief, but Smith knew that his reputation was tainted. He was now lowered to the level of those city officials deeply embroiled in the conspiracies surrounding the drug bust. He was angry with the development. Throughout each day and night, he felt his anger stirred by those who would attack him for such little cause. He knew now that he could recognize the feelings of the drug defendants who had stopped him in the halls of the sheriff's office so long ago protesting that they were not guilty of the crimes being lodged against them. He was again reminded of his humble past, and knew that he would never be able to align his feelings with those frequenting the Petroleum Club or the luxurious halls of Willowbrook. He would always be the common man thrust into the area of power. He suddenly found the realm distasteful and was, for the first time in his life, thankful that he owned an allegiance to that unfortunate element known as "the little people."

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In those early days following the indictments, J.B. had obtained the services of Buck Files, the noted Tyler attorney. It was well known that Buck had done an admirable job in representing his clients during the days of the drug bust, so effective in fact, that reported plans had been made to bug his office and clandestinely take photos of him in private moments. It was certain that Files would have no particular love for the power structure of the area with such events lurking within his past, and Smith felt comfortable with his representation.

Files had come under some fire for having plea bargained many of his client's cases, but even attorneys who did not list Files on the top ten of their hit parade admitted that plea bargaining was "the only game in town" during that period of the area's history. Files had often been required to bargain in his client's behalf at their request, with the defendant submitting orders to get them off as easily as possible without an appearance before a full scale court operation. It had not been an easy

task. In some of the cases, Files would have rather defended the client openly within the court, but the defendants were frightened by the lengthy sentences being meted by Smith County juries and sought any relief, regardless of their guilt or innocence. Even so, it was well known that Files, in union with Kelly Ireland, had been instrumental in unraveling the tainted past of Creig Matthews and J.B. respected that track record.

Perhaps it was because Smith County prosecutors had dealt so often with Files in plea bargains that an offer was made in the case of J.B. Smith. Files was to eventually report to his client that the DA had suggested a deal. In return for a guilty plea to the charges, the state would agree to give Smith a ten year probated sentence, would impose a hefty fine reported to be in the neighborhood of six or seven thousand dollars, and would demand of Smith that he leave the county forever, returning only in cases of extreme emergency. It was not a plea bargain; it was an exile.

Ruffled now to the limits of frustration, Smith decided to change attorneys and called upon Joe Tunnell, a homespun style lawyer whose office was just around the corner from Files'. Tunnell was cut from a mold of his own. He combined an acute sense of logic with an amazing memory for detail and had woven the twin blessings into a law practice that was respected by all. He dealt with juries on their level and had a long-time understanding of the workings of the region's mystique. His strong traits and wise approach to representation had made him a noted attorney within the area and the hallmark of his craft was the absolute believability of his arguments. Juries easily related to his common jargon and could embrace the man as a messenger of truth as he argued the case of his client's innocence. With this homey approach, he had produced an enviable record within the courts. Beyond his skills, however, Tunnell held a deep, abiding trust in the sanctity of the law. To have it distorted by the personal wills of others irritated him deeply and he had no reservations in being the Don Quixote of Smith County, knowing full well that the windmills were those bearing names of influence and power.

Interestingly, the aura of the attorneys had remained intact. It was obvious that Smith was without personal funds and was dependent upon those benevolent persons contributing to his defense fund. Still, the amount was not sufficient for a good preparation or total representation.

Even so, Files had agreed to represent Smith, knowing that if he was ever paid, the money would be slow in coming. Now, Tunnell made the same commitment. Together, they had continued the legacy of their craft that had been demonstrated so well by Dick Grainger and Warren Heagy. If there was a principle involved, there appeared to be able attorneys willing to dedicate themselves toward its resolution. It served as a laudatory note to these men as readily as it had in the cases of so many others within the legal profession.

The defense of J.B. Smith would not be easy. There existed not the black and white elements of violations, rather, the gray spectre of judgment dealing with the basic intents to do wrong. In many of the charges, Smith admitted that he had, in fact, done as the indictments charged. To counter the charges, however, Smith could produce a thread of logic that was palatable to the common mind. It appeared to be logic vs. the law. In other charges, the tangled web of events could be unraveled with alarming ease. Smith had, for instance, been charged with purchasing a set of tires and having the statement forwarded to the county where it had been subsequently paid from government funds. Smith could relate that he did not discover that the payment had been made on a misdirected statement until after the fact and had gone immediately to the county auditor's office to correct the matter. He had reimbursed the county and had been assured that the error was corrected and that all parties were happy. Now, it reigned as an indictment against him. Again, logic vs. the law.

No, defending J.B. Smith would not be an easy matter and Tunnell knew that he would have to be more convincing and eloquent than ever before.

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"You'd better get yourself up to the courtroom of Galloway Calhoun," said Joe Tunnell as J.B. responded to his telephone call. "There's something going on up there."

Indeed, something was going on. In absentia, Judge Calhoun had ruled that J.B. Smith should be suspended from public office pending the outcome of his forthcoming trial. In the interim, an acting sheriff would be appointed - Al Manning, a long time, well-known lawman of the

region. The action was brief and precisely simple. Smith was out - Manning was in. Immediately.

Oddly, Smith had not been informed of the hearing. He had not been called upon to defend himself or to have the privilege of his attorney's presence. Within the content of the prosecution's case against him was the charge that Smith had attempted to influence the officials of Skaggs-Albertson, even though the Smith County grand jury had not seen fit to include that matter within the scope of his indictments after all the facts of the matter had been brought to their attention.

While some rather dramatic cases had been decided within Calhoun's courtroom, none of the long-time regulars of the courthouse could remember an instance when the judge had permitted television cameras to record the event. Now, TV cameras and crews mingled within the crowd and the judge had seen fit to permit the removal of Sheriff J.B. Smith to be widely publicized with full media coverage allowed within his court.

Smith was devastated by the action. He had been kept in ignorance of the hearing's scheduling, and now, all that he knew was that he was no longer the Sheriff of Smith County in the most official sense. He had witnessed to what extremes the powers of the area would go to perfect their concept of justice.

It was agonizing to pack his belongings from his desk and office into cardboard boxes to make room for Manning. He respected Manning, but could not contain the bitterness associated with the introduction to a new man into his position.

With the removal of Smith from office, the powers had demonstrated that they still maintained the ability to reconcile any hostility harbored within their midst. It would be resolved in the most dramatic fashions, for power is not enjoyable unless exercised to its fullest limits. In the very wake of a federal grand jury in session, the powers had shown that they could combine a professional knowledge of law with a cooperative judicial system to enact almost any measure of their vengeance. They had proven that they were still the leaders of the official sect and capable of many things. What they lacked, however, in their pompous attitude of might, was an understanding of the nature of the common man. The downtrodden, somber, hard working, despairing man. With the display of their

power by unseating Smith from office, they had imagined that they would gain a new respect mingled with a sprinkling of fear from the ranks of the common folks. Yet, it was these - the average, middle class, blue collar, barely-making-ends-meet people who now adopted J.B. Smith as the symbol of their despair. He could easily represent the countless times when they had been humbled by a system that seemed to be uncaring of their needs or feelings. If they could not speak out in protest for themselves, then they could rally behind their fellow victim, J.B. Smith. He would be representative of the helplessness they felt within the conduct of their days and he would become the rallying point in their outcry against forces they could never identify, but always knew to exist. The mysterious forces that had brought despair and degradation to their lives. Even though the people recognized that no solitary power of a single county could represent the totality of their woes, they at least had a symbol to represent all that had afflicted them throughout the years. They eagerly struck back in defiance against all such elements where wealth and power reigned over the eight-to-five doldrums of the common life. The fearful times of life when the postman had become a dreaded figure delivering a collection of bills and money came in only two forms - none and not enough. It was these that the power structure had not contemplated, and it was from these that Smith found his final refuge.

Within days, a rally was organized for Smith's defense. It was held at Tyler's Bergfeld Park. Speakers informed the people of the lowly nature of the charges against Smith and urged everyone to support the sheriff in his struggle against those who would make an example of him. He was characterized as someone victimized by those wanting to prove what happened to anyone who dared to oppose the system. Even as the meeting was being held, plain clothes policemen mingled with the crowd, noting the names of speakers and spectators alike. They were busily preparing the list that had a purpose that can be left to either a firm awareness by those who understand the workings of the Tyler Police Department during that period, or as a matter of mere speculation to those who don't. Even as they compiled their list, the speaker enjoined the crowd, "Let us make this firm resolve, that never again will we permit a power to be uncontrolled, a force to be unregulated, a system to be with profane directions, to make any among us the target of its wrath!" The name of the speaker

was jotted down on a yellow tablet and duly delivered to the Tyler Police Department.

If Smith had the vast majority of the common people in his corner, he was not without friends within the circle of the area's elite. Powerful, financially secure people also offered their assistance and gave contributions. It may have been a tort against those of their kind, but these represented the people within any class who held the purity of justice above all other motives.

As the people joined in their collective clamor, Joe Tunnell went quietly about his business. Quickly, he filed an application for a restraining order and temporary injunction with the U.S. District Court to keep Smith County's powers from enforcing the ruling to remove Smith from office. The wheels of a new justice had been placed into action, and only time would resolve whether or not there was truly justice on any level of the system.

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While there was some jubilation that an old score had been settled with J.B. Smith, those within the "inner circle" knew that now there could be no question. The heat was on. The Feds were looking into the conduct of the drug investigation and armed with the testimonies of Kim, Creig, and Mike Lusk, the targets would obviously be Willie Hardy and Ed Wagoner. Hardy had, in fact, been given official notification from the U.S. Attorney that he was a principal in the grand jury investigation. Authorities conducting the investigation had refused to accept the results of the polygraphs and the only appeal left for Hardy and Wagoner was to attempt to turn the tide of public opinion in their favor. It was apparent that a large segment of the general public still supported the city's administration and believed in the legacy of honor that haloes most police departments. Yet, if they were to be investigated, they would first turn to the public in the hope of intimidating their foes with the strength of their popular support. Ed Wagoner fashioned a public statement that was published in the Tyler Morning Telegraph under the banner, "City Manager Breaks Silence."

The thrust of the statement went to the heart of the matter with

Wagoner declaring that his comments had been prompted by a flow of rumors that were an ". . . attempt to tarnish the professional and personal reputations of public officials," and that he was making the statement ". . . in view of the viciousness and lack of factual basis for the majority of these rumors." He assured area residents that ". . . I am prepared to take appropriate action if evidence of a coverup is discovered in this (the drug bust) or any other matter handled by the Tyler Police Department."

Wagoner's four page typewritten message was handed to representatives of the media and contained the observation, "In recent weeks, the news media has carried stories which indicate that the two principal persons involved in the drug investigation may have committed illegal acts while serving as undercover agents. At this time, I have no way of verifying whether or not this is true, but if it is true, it is very disappointing and disturbing to me.

"It has also been disturbing and disappointing that certain individuals have exhibited an almost gleeful attitude about this turn of events. Some members of the news media have been using information from 'unidentified sources close to the investigation. These 'leaks' of information, to the best of my knowledge, have amounted to little more than half truths, innuendo and street gossip, in some instances.

"This is probably very comforting to those who are now engaging in, and those who are considering engaging in the selling of illegal drugs. If it is true that any city agent involved in the investigation committed an illegal act, I am very deeply saddened for those individuals personally, as well as any other person that may have been affected by such an act. I am also saddened because of the chilling effect it may have on future efforts by the Tyler Police Department to combat this very serious community problem."

Wagoner observed that: "In September, 1979, the Tyler Police Department attempted to do something to combat the illegal trafficking of drugs in our city. On hindsight, some mistakes may have been made by those persons directly involved. However, the net results was that more than 70 persons stood before a judge, and with their attorney, voluntarily admitted they were guilty of one or more drug related offenses. I cannot help but believe that for a time the drug investigation was a deterrent to those persons who were inclined to deal in illegal drugs in this city."

In the remainder of his statement, Wagoner was to personally deny that he had stopped the investigation by fire department officials into the fire-bombing of Kim Ramsey's auto. He was to deny that any private funds were utilized in the financing of the drug investigation. Finally, he was to deny that any official attempted to cover up any event within the drug investigation, as far as he was able to determine by his own inquiries into the matter. He proclaimed that he had not personally covered up any such event.

An integral part of the statement was found in Wagoner's reference that he would "....address myself to each issue which I deem worthy of comment." This, of course, eliminated from the statement the issue of the taping of Judge Galloway Calhoun, and Wagoner failed to deal with the subject at all. Obviously, the clandestine taping of a conversation with a state district judge was not "worthy of comment."

Likewise, there was a point of fine interpretation that Wagoner apparently could not perceive. While "more than 70 persons" had entered guilty pleas to drug offenses, many of those were prompted to do so out of fear. They had paid close attention to the sentences being rendered by Smith County juries and when some of their peers faced life in prison for charges similar to theirs, they willingly proclaimed their guilt with the hope of securing probation. It was the plea bargain system that would accept only guilty pleas.

The fine point is entered when one considers that the vast majority of the defendants admit to this day that they were, indeed, drug users. Their objection, most commonly, was that they were not guilty of the actual offense for which they had been charged. The common opinion of lawmen and laymen alike was that it didn't matter whether or not the defendants were guilty of a particular offense, what was important was that they were guilty nonetheless of similar crimes. A doper was being removed from Tyler's streets. A dope head was being evicted from the domain of Smith County. Whether or not there was a question of a singular offense was of no particular significance. Guilt is guilt - and that was apparently enough.

What was so easily forgotten was that the guidelines of the justice system provides for the finding of guilt or innocence on the specific offense for which one is charged. Peripheral guilt in other, unrelated offenses is

not pertinent to the court. If the defendants were truly innocent of the offenses that had led them before the court, then they were not guilty within the eyes of the law. To Wagoner, however, this factor was obviously not worthy of observation. If 70 young people had entered guilty pleas out of a fear instilled by the terror of the system, then it became a signal of some lasting guilt. Extenuating circumstances be damned, if they entered guilty pleas, they were guilty. Fear and intimidation were factors never to be weighed. Even at this point, it is well known throughout the region that many of the drug defendants continued to declare that they were innocent of the charges stemming from the work of Matthews and Ramsey and had entered guilty pleas before the court out of a deep, abiding fear. Some accepted plea bargains that guaranteed probation. Others accepted deals wherein their charges were reduced in return for a guilty plea. Others still wanted to get the entire experience behind them and had surrendered to whatever fate the courts might grant them.

Even though the charges of wrong-doing on the part of the narcs and the submission to fear bringing defendants to plea guilty to charges they claimed were fraudulent had been widely publicized, Wagoner was to deny the issue and pompously declare, "I personally value the rights guaranteed to all citizens by our Constitution. I abhor any attempts to deprive any person of such rights, whether they be accused under laws covering the dealing of illegal drugs or otherwise.

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Interestingly, among those rights provided by the Constitution is the right to a fair and unbiased trial. This was one of the sacred rights supported by Wagoner's statement. Yet, when things were going badly for the prosecution during the famous Johnny Allen Green case and Dick Grainger was dissecting Creig Matthews on the witness stand, it was Ed Wagoner who decided to take action. In an attempt to demonstrate to Judge Calhoun that the power-and-influence segment of the area's population did not appreciate the latitudes given to Grainger by Calhoun, Wagoner arranged for the front rows of the spectator's section of the courtroom to be filled with city council members and community leaders. By having such people of prominence glare at Calhoun during the trial, it

150 Tyler Morning Telegraph, Wednesday, August 26, 1981, "City Manager Breaks Silence."

was apparently hoped that the judge would relent from his willingness to have Matthews' background paraded before the jury. For the man who personally valued the rights of all citizens, the City Manager had somehow forgotten the right to a trial that was without hindering influences or specific bias.

To the public, the statement of the City Manager was received with mixed emotions. Many felt that their belief in the system had been vindicated by Wagoner's comments. Others kept their posture of viewing everything coming from a Smith County or Tyler official with a jaundiced eye. In the locker room of the Tyler Police Department, however, one patrolman reviewed the City Manager's statement and swore with disgust. Angrily, he cast the newspaper toward the corner of the room. "Wagoner breaks silence," he spat with contempt. "For all the crap he put in that statement, he might as well break wind."

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It had been two years and four months since the infamous "bust out" that had netted the Tyler Police Department 121 drug suspects. Enough time had passed that some of the defendants had gone to prison, been paroled, and were again walking Tyler's streets, reporting monthly to their parole officer. Others were in the final months of the probation ordered by the court, and were living near poverty levels to repay the loans that had permitted them to make bond or pay the fines levied by Smith County judges. Some were working two jobs, and sometimes three. Among the women defendants, two had lost custody of their children in divorce cases wherein their convictions were used in the claims that they were unfit mothers. Youngsters had interrupted the pursuit of their education to gain employment to pay off the heavy debts brought by the horrors encountered on April 25, 1979. At least five of the former defendants were known to have been under the care of psychiatrists in an attempt to dispel the scars of the experience from their lives.

It was now August, 1981. Newspaper accounts told of Creig and Kim Matthews appearing before U.S. District Judge William Steger and entering a guilty plea to the charge that they had violated the civil rights of Kenneth Andrew Bora by falsely accusing him of selling cocaine. Steger had

established their bond at \$1,000 and had delayed sentencing until the former narcs had appeared before the federal grand jury. For the drug defendants, the bond was appalling. It was 500 times less than that established for Bora at the time of his arrest for allegedly selling cocaine! The degree of their disgust was increased when it was learned that the bonds had been set as personal recognizance ones that were based upon a historic court attitude of the "honor system." The defendants had not detected much honor in the nature of Tyler's prize-winning narcs.

Now, the ghosts of comments made in April of 1979 haunted the area's officials. Hunter Brush had characterized the narcs as "...police officers who went out and endangered their lives in an attempt to protect our children from drugs." Willie Hardy had been even more luxurious in his praise of the narcs in the long lecture tour that found the trio appearing before church groups and civic clubs. Wagoner had believed that the drug bust promoted the Tyler Police Department into a model role for all other departments throughout the state. The praise of the department and its narcs reached upward to the Mayor and downward to the street cop who had found a momentary pride in the achievements of the department. Now, all such comments seemed hollow, and the drug investigation had become a scar upon the image of the region as a whole.

As Creig and Kim appeared before the United States Grand Jury, they were supported by Tim McGuire's testimony and a source inside the jury room indicated that McGuire was happily "spilling his guts." Yet, even as McGuire sat before the jury and related his strange role as an informant/unofficial assistant to Matthews, he was unaware of the thoughts filling the mind of Texas Ranger Stuart Dowell. In Dowell's mind, McGuire was the prime suspect in the shooting of Matthews, and would remain so throughout the subsequent years.

As the proceedings continued behind a curtain of secrecy, the media waited for some indication of what recommendations would come from the grand jury. By the end of the first week of October, reporters were weary of the "no comment" responses from principals and were not tenacious in their questions. With the resignation of John Hannah, Bob Wortham had become the U.S. Attorney for the district and he was confronted with newsmen with each exit from the hearing room.

"Mr. Wortham," a reporter called forth over the din of his colleagues,

"are there going to be any indictments coming from the grand jury?" Wortham smiled slightly, replying a terse, "Sure."

"When?"

"I don't know," Wortham replied, walking through their midst.

If there were to be indictments and the grand jury had heard the confessions of the narcs, the reporters now wondered what the status would be of those who had fallen prey to the narcs. Would the convictions stand in the cases of the 121 defendants rounded up in the drug bust? Wortham wouldn't give an answer and Hunter Brush admitted that he didn't know - it was a matter that they were still examining. The newsmen cornered Judge Donald Carroll in the hope of gaining some information about the matter.

Carroll was more vocal than the others. He began cautiously by stating that it would be improper for him to comment on the future of the drug cases but indicated that he had instructed Brush's office to review all the cases wherein the defendants did not admit their guilt.

"What about the Bora case?" called a reporter. "Even though the narcs admit they framed him on the cocaine charge, what about the shooting? Why wasn't Bora held in prison on the shooting of Matthews? That's the crime he was sent there for. What does that have to do with the fact that he was framed on a charge that ended in hung juries?" Carroll issued a slight smile. "There's a difference between shooting a police officer who has filed a case on you and shooting someone who framed you," replied Carroll.

The comment was perplexing to the newsmen, but filled with the kind of meat that makes for good coverage. They didn't press the matter. It was better to have the statement the way it stood than to give Carroll a chance to elaborate on it.

Less creative newsmen went to the office of Ed Wagoner in search of his observations. These were the ones who had not felt the need to press the justice system for answers. They would go to the city administration for views and hope that Wagoner would provide them with something representative of an official viewpoint.

"I am shocked at what I understand was said in court by both Creig and Kim Matthews," said Wagoner, "but at this time there is absolutely nothing the city government can do about the matter except to cooperate

to the fullest extent in the investigation which is under way."

Those in the media scattered in search of statements. There had never been a story of such dynamic implications before in the history of the county. If the traumatic events of the past had been more devastating, they were of a nature to unite the people. Now, the citizens were divided in their loyalties and few were able to keep a firm grasp on their belief in the system. The drug bust had infiltrated into the upper stratas of the area's society, and with it had come an erosion of the aristocracy. The singular faction that had so long served as the cornerstone of the society was now crumbling in the wake of the controversy and the factionalizing of the people. The aloof and the elite would never be quite the same again. They would yet gather at the Petroleum Club and at the country clubs, but the horrors of the drug investigation had penetrated their midst. Their children had been subjected to the same treatment as had the "have nots." For the first time, it was an invasion of their domain that they could not counter.

Newsmen who lingered outside of the grand jury room gathered about Tyler attorney Buck Files as he walked through the exit. His face betrayed his weariness. It had been a long, difficult struggle. Since the first day of the drug bust, it had been Files and Ireland who had adamantly proclaimed that all was not well with the conduct of the probe. They had suffered greatly. Criticism had reached them from all levels of the society and pressures had been exerted from the higher levels of the administration. In spite of it all, Files had remained vocal about his opposition to the authorities conducting the drug investigation. In retaliation to his courageous posture, he had almost been targeted by the authorities himself.

"Texas Ranger Stuart Dowell and special agents of the Tyler office of the FBI are to be commended for the work they have done in bringing this case to court," began Files softly.

"This is, I believe, only the tip of the iceberg. I only hope that those persons who suborned the perjury and covered up for the defendants, Matthews and Ramsey, are brought before the bar of justice.

"I was amused this morning that the city manager, police chief, city commissioners and Perot's private arm were not in attendance at this hearing as they had been at the trials at which Mathews and Ramsey testified."

As some reporters lingered about the halls of the Federal Building, others had migrated to the offices of attorney Weldon Holcomb and finally urged Kenneth Bora to come forth with a statement. They were convinced that the burly Bora would be cocky and arrogant in his vindication, but were stunned with his calm, almost passive response.

"What do you think of Kim and Creig now?" shouted a woman reporter.

Bora shook his head slowly. "I feel sorry for Creig and Kim, because they will probably have to experience what I experienced in prison," said Bora. "At least, though, they are guilty of a crime. They have more problems than prison can straighten out. They have been used and abused by the same system that abused me."

Bora's reply was so filled with humility that Dallas Morning News writer Bill Deener was forced to comment, "Ken Bora.... did not gloat and preen in his victory...."

Slowly, as if by some mysterious osmosis, the principals of the day's events faded from the scene and the newsmen retreated to their typewriters and microphones. Now, they would inform a troubled public of the facts as they could best interpret them. Their job would be ended until tomorrow, and tomorrow could be very interesting.

The last to leave the room was Warren Heagy. His lean frame slumped now, wearily. His mind was filled with the assortment of memories that had compiled this moment of victory. His body moved without command from his mind, and he found himself within the glare of the sunlight, walking slowly on Ferguson Street until the city square came into view. A light breeze touched his hair and he watched a cloud of birds lift from the trees. Thoughtlessly, he moved toward the Smith County Courthouse, as if it were the portent of his day. It had been there that he first encountered the system of the county and it was there he knew he must return, as would a primitive bird to the place of its first nesting.

Within the courthouse, he automatically climbed the stairs to the second floor where the courtrooms were located. There, he slumped upon a bench and permitted his eyes to wander about the scene. In the chambers of his mind, he could detect the murmurings of people from long ago, when he was defending Kenneth Andrew Bora in the courtroom of Judge Donald Carroll.

He was compelled to remain there, to enjoy the solitude and comfort. It would take a while for the message of the day to seep into his mind. As an attorney, he had been instrumental in gaining freedom for an innocent man. On this day, the substance of that freedom had been confirmed by those who had wronged his client. There could be no achievement more noble within his profession and he was humbled by the thought of it.

His eyes moved about the halls. A smile parted his lips as he recalled the day when he had stopped the investigator, Jerry Davis, and whispered mischievously. "Hardy and Findley are sitting on the bench just around the corner," he related softly. "There's a seat left vacant right between them."

Davis looked toward him with an expression of confusion. "Yeah? So what?"

Heagy had placed his hand on Davis' shoulder. "Davis, you don't have a hair on your ass if you don't sit right in between them."

Heagy knew how much Hardy and Findley disliked the investigator. He had been a troublesome thorn in their sides for months. Now, to have Davis separating them would retard all of their communication and give them a delectable discomfort.

"Are you daring me?" asked Davis, for he was of the type never to refuse a challenge to his manhood.

"You're damned right I am," replied Heagy.

Deliberately, Davis moved toward Hardy and Findley with a broad smile. Quickly, he slumped into the vacant seat and crossed his legs. His eyes examined the ceiling and his mouth was pursed, as if poised to whistle.

"Hi, Willie," he offered.

"Hello, Mr. Davis," Hardy replied.

A long silence lingered then and Heagy found himself moving to a vantage point at some distance to witness the event. He fought to control his urge to laugh. From time to time, Davis would glance in his direction as a signal that he knew the lawyer was observing the entire episode. For this reason, Davis spoke loudly, making certain that Heagy would hear each comment.

"Willie? Did I ever tell you that I had a pet duck?" asked Davis.

"No, Mr. Davis. You never told me."

"Yep. I have a duck. Know what I named him?"

"No, Mr. Davis, I didn't know that you had a duck, so I couldn't know what you named him."

Davis nodded his acceptance of the logic. "I named him Willie," he offered.

The silence reigned again. A long, icy silence.

"Well, aren't you going to ask why I named my duck Willie?" asked Davis with an expression of wonder as his voice shattered the stillness. Hardy sighed with anger. "All right, Mr. Davis. Why did you name your duck Willie?"

Davis turned slowly in his seat, his eyes riveted upon Hardy's face. "Because all he does is walk around in circles, quack, and shit," said Davis coldly.

Heagy now smiled with the recollection. He would have to call Davis and tell him of the developments of the day. The man would be pleased. There had been so much to remember. Heagy felt a kinship to the surroundings now. Anyone passing him would have to realize that there could be no further expressions of contempt. He would no longer be that infidel attorney representing the porno kingpin, Bora. Now, he was the lawyer who had pursued justice and had won. The feeling was good. With it as his companion, he knew he could leave the courthouse and Smith County with the warm glow of satisfaction.

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October lingered into November and the grand jury continued its interrogation of witnesses. The officials with the agencies dealing with fire investigations appeared and were grilled about the alleged attempts to have the probe of the arson of Kim's car halted. Police officers were questioned and drug defendants called forth to reveal all that they knew. It was a long, slow, painful process that seemed to proceed forever.

Autumn would not surrender to winter that year. The days of November were pleasant and comfortably warm. The lingering of the Indian Summer caused a lethargic attitude to infiltrate the people. By now, they had grown weary of hearing of the intricacies of the intrigues. No longer did the whispers deal with the rumors of the narcs and the possible involvement of high-level officials. Now, it was a time to enjoy the last days of fishing in Lake Palestine beneath a warm sun.

On November 11, 1981, however, the people were stirred again into an awareness of the drug investigation. On that date, the Federal Grand Jury submitted a document that would form quakes of reaction throughout the area.

INDICTMENT

The Grand Jury charges:

COUNT ONE

Violation: 18 U.S.C. S241
(Penalty: Not more than 10
years or not more than
\$10,000, or both)

INTRODUCTION

1. At all times material herein WILLIE HARDY, the DEFENDANT, was the Chief of Police for the Tyler, Texas Police Department.

2. At all times material herein Kimberly Matthews, formerly Kimberly Ramsey, was a police officer with the Tyler, Texas Police Department assigned to the Vice Squad and the investigation of alleged narcotics violations.

4. On or about March 3, 1979, WILLIE HARDY, DEFENDANT herein, personally observed Creig Matthews suffering from and experiencing the effects and displaying the physical manifestations of someone under the influence of illicit drugs and thereafter, during the month of March, 1979, the exact date being unknown to the Grand Jury, WILLIE HARDY, the DEFENDANT, was told by Kimberly Ramsey that Benjamin Creig Matthews had a drug problem.

CONSPIRACY

5. From on or about May 1, 1979, up to on or about July 27, 1981, at Tyler, Texas, within the Eastern District of Texas, WILLIE HARDY, the DEFENDANT, together with Benjamin Creig Matthews and Kimberly Ramsey Matthews, named herein as co-conspirators but not as defendants,

and others known and unknown to the Grand Jury, while acting under color of the laws of the State of Texas, did knowingly, willfully and unlawfully conspire together and with each other to intentionally injure Johnny Allen Green and Kenneth Andrew Bora, citizens of the United States, and other citizens of the United States, in the free exercise and enjoyment of rights and privileges secured to him by the Constitution and laws of the United States, to-wit: the right not to be deprived of liberty without due process of law and the right to a fair trial based on truthful testimony.

6. It was a part of the plan and purpose of the conspiracy that the conspirators, including the DEFENDANT, WILLIE HARDY, would cover-up and deny that Benjamin Creig Matthews, a narcotics officer functioning in an undercover capacity for the Tyler Police Department, had been using illicit drugs during the time when he was working for the Tyler, Texas Police Department in order to prevent Benjamin Creig Matthews' credibility as a prosecution witness for the State of Texas from being discredited at trial and to thereby secure a verdict of guilty at the trial of Johnny Allen Green and Kenneth Andrew Bora and at any and all other state criminal trials at which Benjamin Creig Matthews would testify.

7. It was further a part of the conspiracy that the conspirators, including the DEFENDANT, WILLIE HARDY, would withhold information concerning illicit drug usage by Benjamin Creig Matthews from the Smith County District Attorney, and others, who had the legal responsibility to prosecute certain criminal cases and who were relying upon the credibility and testimony of Benjamin Creig Matthews.

8. It was further a part of the conspiracy that the conspirators, including the DEFENDANT, WILLIE HARDY, would deny knowledge of any illicit drug usage by Benjamin Creig Matthews when questioned under oath before a jury and would give perjured, false, misleading, evasive and deceptive testimony in response to questions concerning illicit drug usage by Benjamin Creig Matthews as a witness for the State of Texas, notwithstanding the falsity of such perjured testimony and the conspirators' knowledge to the contrary.

9. It was further a part of the conspiracy that following the completion of the trials of Johnny Allen Green and Kenneth Andrew Bora, the conspirators would continue to deny during the course of subsequent

judicial proceedings that Benjamin Creig Matthews had been using illicit drugs while employed as a Tyler, Texas police officer and, further, would remain silent about and keep secret the true facts concerning illicit drug usage by Benjamin Creig Matthews in order to prevent the discovery of their wrongful acts.

10. Among the means by which the conspirators, including the DEFENDANT, WILLIE HARDY, would carry out the plan and purposes of the aforesaid conspiracy were: 1) false testimony while under oath as prosecution witnesses for the State of Texas concerning Benjamin Creig Matthews; 2) withholding of truthful information from the Smith County District Attorney and Assistant District Attorneys concerning Benjamin Creig Matthews.

OVERT ACTS

In furtherance of the conspiracy and to effect the objects and purposes thereof the conspirators, including the DEFENDANT, WILLIE HARDY, committed the following overt acts among others within the Eastern District of Texas.

1. During the month of May or June, 1979, the exact date being unknown to the Grand Jury, the DEFENDANT, WILLIE HARDY, had a meeting with Charles Carver , Chief Investigator for the Smith County District Attorney's office, during which allegations of illicit drug usage by Benjamin Creig Matthews were discussed.

2. During the month of May or June, 1979, the exact date being unknown to the Grand Jury, the DEFENDANT, WILLIE HARDY, told Charles Carver that allegations that Benjamin Creig Matthews had been using illicit drugs while employed as a Tyler, Texas Police Officer were false and that the investigation of Benjamin Creig Matthews should be stopped.

3. On or about July 24, 1979, Benjamin Creig Matthews falsely testified in the trial of State of Texas v. Johnny Allen Green, No. 479-40, that he was not using illicit drugs.

4. On or about July 25, 1979, WILLIE HARDY, the DEFENDANT herein, falsely testified under oath in the trial of State of Texas v. Johnny Allen Green, No. 479-40, that he had never observed Officer Benjamin Creig Matthews being under the influence of drugs, and further, he never

had found any evidence as to any conduct that might call into question his ability, his truth, and veracity.

5. On or about July 27, 1979, the DEFENDANT, WILLIE HARDY, met with Michael Lusk, a Sergeant with the Tyler Police Department; Hunter Brush, the Smith County District Attorney, Huey Keeney, the defense attorney for David Ashcraft; and others during which allegations were made that Benjamin Creig Matthews had been using illicit drugs while employed as a Tyler, Texas police officer.

6. During the time of mid-August, 1979, to on or about October 4, 1979, the exact times being unknown to the Grand Jury, the DEFENDANT, WILLIE HARDY, had numerous conversations with Jerry Banks, an Assistant District Attorney with the Smith County District Attorney's Office, and told Jerry Banks that allegations of illicit drug usage by Benjamin Creig Matthews were untrue and without factual support.

7. On or about October 4, 1979, Benjamin Creig Matthews and Kimberly Ramsey falsely testified in the trial of State of Texas v. Kenneth Bora, No. 7-79-8, that Benjamin Creig Matthews had not been using illicit drugs while employed as a Tyler, Texas police officer.

8. From on or about October 4, 1979, to on or about December 4, 1979, the exact dates being unknown to the Grand Jury, the DEFENDANT, WILLIE HARDY, met with Jerry Banks, an Assistant District Attorney for Smith County, Texas, and discussed allegations made during the aforesaid trial of Texas v. Bora, No. 7-79-8 that Benjamin Creig Matthews had used illicit drugs while employed as a Tyler, Texas police officer and Benjamin Creig Matthews' testimony denying such allegations and further told Jerry Banks that the allegations against Benjamin Creig Matthews were false.

9. On or about December 4, 5, 1979, Benjamin Creig Matthews and Kimberly Ramsey falsely testified in the re-trial of State of Texas v. Kenneth Bora that Benjamin Creig Matthews had not been using illicit drugs while employed as a Tyler police officer.

10. On or about June 25, 1981, WILLIE HARDY, the DEFENDANT herein, falsely testified under oath during a post-trial judicial hearing in State of Texas v. Kenneth Andrew Bora, No. 7-80-5, that during the undercover operations of Benjamin Creig Matthews it was never reported to him that Benjamin Creig Matthews was getting strung out on drugs.

All in violation of Title 18, United States Code, Section 241.

THE GRAND JURY FURTHER CHARGES:

COUNT II

Violation: 18 U.S.C. S242
(Penalty: Not more than 1
year or a fine of \$1,000 or
both)

That on or about July 24, 1979, at Tyler, Texas, within the Eastern District of Texas, WILLIE HARDY, the DEFENDANT, who was then the Chief of Police for the Tyler, Texas Police Department, while acting under color of the laws of the State of Texas did willfully testify falsely during the trial of Johnny Allen Green, an inhabitant of the State of Texas, and did thereby willfully deprive Johnny Allen Green of a right protected by the Constitution and laws of the United States, to-wit: the right not to be deprived of liberty without due process of law and the right to a fair trial based on truthful testimony.

All in violation of Title 18, United States Code, Section 242.

A TRUE BILL

Foreperson
Federal Grand Jury

Bob Wortham
United States Attorney
Eastern District of Texas

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Following the singular indictment issued by the federal grand jury, those within that circle wanting to bring justice to the systems of Smith County were filled with mixed emotions. Many harbored the belief that the jury had not gone far enough. Certainly Hardy was not the only member of the infamous "inner-circle" that could have been indicted. There was ample evidence that the conspiracy had a larger range of influence if only more investigation had been done. While the indictment appears to be a solid charge against the chief, there were those holding firm to the

belief that the grand jury could have leveled charges against Ed Wagoner as well, and perhaps others. The immunities granted to Kim and Creig were understandable, and anyway, they would be sentenced for their crimes later. The immunity given to Mike Lusk was not met with hostility, for Lusk was known to be a very little fish in a large, stagnant pond of area politics. Some spoke of Kenneth Findley and questioned why more work was not done to determine his role in the alleged conspiracy. Others glanced toward Tony Nash and the informant, Tim McGuire. Why Hardy should have been the only person indicted was a rampant question within the Smith County Courthouse, and it was finally assumed by many that the indictment was symbolic of the power structure, and that the trial would represent Hardy as the symbol of the entire city structure.

Slowly, leaks came from the members of the grand jury and it became apparent that the jurists had examined many issues that had not been revealed to the media. The plot to exterminate Cowboy Denmark at the convenience store was among the issues probed by the body. Rumors that a patrol supervisor with the Tyler Police Department had, himself, dealt in drugs within the region had been investigated. The secret taping of Judge Calhoun had been examined, and the web of intrigue within the city's administration had all come before the panel for their scrutiny. From all of that exposure, the panel had somehow arrived at the decision to indict only Hardy, and with that decision, they additionally chose to indict him on only two charges. Many found it strange that Hardy had not been charged with the illegal use of the impounded vehicle of Royce Lundy, even though a Texas Department of Public Safety officer had stopped the chief on an interstate highway while the illegal vehicle was in Hardy's possession. Federal rights guarantee the protection of one's property, and many felt that this could easily have been included in the charges.

"They're not going to clutter up the charges with small change like that," offered one local attorney. "They know they have Hardy on the charges listed."

"What makes you so sure?" asked a wise companion of the attorney. "Look, when the feds put charges against you, you can take it to the bank that they've got you. They don't make charges unless they know they have the goods on you."

"Maybe so," drawled the companion, emitting a spew of tobacco to

the sidewalk. "But remember, this is Smith County."

To others, the question of whether or not Hardy would be convicted was hardly worth consideration. News reports had already indicated that Hardy had gone to Ed Wagoner and requested that he be demoted to Assistant Chief until the trial was over. Wagoner had approved his request and Leo Britton of the Tyler Police Department had been elevated to Acting Chief. It was evidence that Hardy could see the writing on the wall and didn't want his demise to be too dramatic. As Assistant Chief, his conviction wouldn't be as startling as it would have been if he was the chief executive of the department. Yes, many agreed, this was indicative of things to come. Hardy would surely be convicted.

For others, however, the demotion would merely provide Hardy with less responsibilities and more time to prepare for his defense. It was a good strategy and many defense attorneys felt that the attorney Hardy had contacted to defend him, Rex Houston of Henderson, Texas, had recommended the move. Already, there were signals that perhaps they were right.

In early December of 1981, large advertisements began appearing in the Tyler newspaper under the heading: "WE CARE.... ABOUT YOUR CHILDREN." The message initiated the movement in behalf of Hardy and read:

"We ask you to join us in standing with Chief Willie Hardy in his defense of charges made recently against him. Not only do we firmly believe in his innocence, but also are convinced that he is under attack by forces intent on bringing corruption to the City of Tyler.

"We stand behind our Police Department in trying to keep Tyler a city where our children can grow up without fear of dope pushers and organized crime.

"If you feel as we do about Tyler, please help with Willie Hardy's defense. You will not only be supporting him, but providing protection for your family, as well.

Thank you,
Citizens for Willie Hardy. . . ."

Listed as the chairman of the newly-formed organization was none other than Tom Maddux, Hardy's minister who had been so vocal in his support of the chief in earlier days.

On December 28, 1981, Maddux was to compliment the campaign by sending to prominent persons throughout the region letters of additional appeal. The letter was geared primarily for businesses within the area and bore the salutation of, "To the Chief Executive Officer."

"On January 18, 1982, the City of Tyler will go on trial. Although Tyler Police Chief Willie Hardy will be on trial for violating the civil rights of persons arrested for selling drugs, the real issue will be the right of the people of Tyler to strong law enforcement and freedom from the deleterious influence of drugs and organized crime.

"Chief Hardy is innocent. His innocence has been verified by an independent polygraph examination. U.S. Attorney Bob Wortham was made aware of the results of this examination. He not only chose to ignore the results of the polygraph, but also refused Hardy's offer to submit to an FBI administered polygraph, presumably for fear that it would prove his innocence.

"As early as October, 1981, an Assistant U.S. Attorney was overheard telling a group of people in a private club bar that Chief Hardy would definitely be indicted by the Federal Grand Jury. Furthermore, Mr. Wortham told members of the news media, long before completion of the federal investigation, that indictments would definitely be forthcoming. "Mr. Wortham's case is based upon testimony of admitted perjurers, self-confessed arsonists, and felons who have been granted immunity from prosecution in exchange for their testimony against Chief Hardy.

"You need to get involved! The price of freedom is high. The only way to keep Tyler a safe place in which to raise your children and grandchildren is to demonstrate to the criminal element that the business community of Tyler actively supports the kind of law enforcement for which Chief Hardy stands.

"Your response to this crisis is being carefully watched by both law enforcement agencies and organized crime. Act now to rid our community of the cancerous roots that are attempting to gain a foothold in our midst. The citizens of Tyler have always looked to you, its business leaders, to defend the community against forces from without and within that would destroy the quality of life we all cherish.

"Time is short. We need your financial and influential support now. Please use the enclosed self-addressed stamped envelope to send your

contribution to the Citizens For Willie Hardy.

"Your contribution will remain confidential unless you specify otherwise. GET INVOLVED!

Sincerely,

T. W. Maddux Chairman

The echoes of the stirring message offered by the Episcopal minister long before, in the midst of the drug bust, rang still across the region. Where the Rev. McGehee had eloquently called for common restraint, Maddux now called for partisan action. While McGehee had warned of a reactionary movement that could be damaging, Maddux encouraged it. As McGehee had spoken of "throwing the first stone," Maddux now cast boulders toward the federal prosecutors.

Only the most naive of the area's business leaders could have been influenced by Maddux's appeal. Those who had not taken the time to probe the details of the Hardy case might have felt compelled to join Maddux in his posture of defiance against the federal indictments. But if there was an element of naivety within the movement, it could not have been surpassed by that displayed by Maddux himself.

Part of the mystique of attending a church is found in the belief that a minister is totally aware of the content and implications of each statement. Inherently, he is one to be completely believed, if for no other reason than his chosen station in life. Yet, Maddux made repeated references to "organized crime" even though the entire scope of the investigation had never produced convincing evidence that organized crime was ever active in the drug supply to the region. This, of course, precludes that Maddux was referring to organized crime as that national syndicate or international organization well known to all.

Maddux filled his plea with assumptions and opinions that offered little support in reality. In his opening comments, he expressed the view that the City of Tyler would be on trial.... yet, there was no indication of any such fact and if the indictment had implied that the entire city was being accused, then certainly the indictments would have been issued to other city officials as well. The City of Tyler was not on trial. The trial was con-

fined to the principal it clearly identified - Willie Hardy. It may have been a good fund raising gimmick, but lacked substance in the realm of truth. The idea that Hardy's innocence had been verified by a polygraph examination has already been extensively dealt with within this writing. And, of course, Wortham would have ignored the results. His position was no different than that of the Smith County District Attorney or Hardy himself when the polygraph results of many of the drug defendants were ignored. Likewise, the suggestion that Hardy had offered to submit to an FBI administered polygraph was not wholly true. Hardy had agreed, through Charles Clark, to take another polygraph with FBI participation, if a mutually-agreed upon examiner could be found. Further, Maddux became extremely unfair in his assumption that Wortham had refused to accept the polygraph results, "... presumably for fear that it would prove his (Hardy's) innocence." Wortham refused to accept the polygraph results for the same reason that any other prosecutor would have: the results were simply inadmissible within the courts. The polygraph does not provide conclusive results.

As Maddux attacked the case of the prosecutors as being based upon the testimony of "... admitted perjurers, self-confessed arsonists, and felons who have been granted immunity from prosecution in exchange for their testimony..." the suggestion was clear that Maddux believed a "railroad" job was being undertaken by the government. The implication was that Hardy was being victimized by the testimony of less-than-favorable persons. To him, it somehow didn't seem fair.

Under the rules of the court that would try Hardy, however, among the factors that would not be permissible was "hearsay evidence." Still, as Maddux sought to diminish the government's case, he called upon hearsay evidence to influence the region's business leaders. The fact that someone reportedly overheard a conversation while in a bar would never be admitted as evidence within a courtroom. Still, Maddux felt it was fair to include this allegation as a part of his appeal. Not only did he utilize this ploy, but bent the facts by stating that Wortham had informed media members that "indictments would definitely be forthcoming." In reality, Wortham had been asked the question if indictments would be forthcoming, and his reply was a terse, "Sure." That is a far cry from an elaborate statement that "indictments would definitely be forthcoming."

The wide range of assumptions by Maddux included the interesting observation, "The citizens of Tyler have always looked to you, its business leaders to defend the community against forces from without and within that would destroy the quality of life we all cherish." The most casual analysis of the statement would conclude that this is not wholly true. Most citizens look to their law enforcement for such protection, and in the conduct of the infamous drug bust, the citizens had found that protection wanting.

As Maddux attempted to influence the business community, Charles Clark was busy reaching into the grass roots of the area. A letter dated January 11, 1982 was sent to prominent persons without a salutation.

"Police Chief Willie Hardy has been indicted by a Federal grand jury. The allegations against Chief Hardy, in my opinion, are not supported by fact. Bob Stevens, formerly with the FBI, and I have worked since May of this year¹⁵¹ investigating various allegations against the Tyler Police Department. From the very beginning we felt that someone was going to be indicted and probably Chief Hardy, simply because so much had been said by the federal authorities that to save face an indictment was going to be returned. If you have not seen a copy of the indictment, I will be happy to furnish it to you. After reading it, I think you will agree that it is amazing that the federal government would indict someone based on such allegations. I believe in Chief Hardy's innocence.

"Chief Hardy is faced with the monumental task of defending himself against the federal government. Being a police officer since 1967 has certainly not made him a wealthy man. In fact, he has only his home and a very small amount of savings. He has absolutely no funds with which to pay an attorney.

"I recommended that Chief Hardy go to Rex Houston of Henderson, Texas, and employ Mr. Houston to represent him. In my opinion Rex Houston is one of the most competent trial attorneys in this area. Mr. Houston is charging a fee of sixty thousand dollars, which includes the cost of investigation. Believe me, this fee is not out of line for this case. When you are taking on the federal government you had better have the

151 Clark obviously meant May of last year since this letter was written in January.

best attorney and he must be well prepared. I do not care how weak the government's case maybe, the federal authorities can make a great deal out of nothing if you are not prepared to defend yourself.

"I promised Rex Houston that I would do everything I could to raise the amount of money needed to defend Chief Hardy. I am asking you as a person whom I understand is interested in Chief Hardy's defense to come to his rescue. A bank account has been established under the name of Chief Hardy Defense Fund and Nancy Chrietzberg is the person with authority to make withdrawals and deposits. If you desire to contribute to this fund, will you please make your check payable to that account and send it to the above address.

"I will appreciate your assistance in this regard and Chief Hardy will contact you within the next several days and express to you his personal appreciation.

"I have enclosed a brief resume covering Chief Hardy which I think you will find enlightening.

Sincerely yours,

Charles H. Clark."

Unlike the missile penned by Rev. Maddux, Clark had left little grounds for analysis or attack. His views were general and relatively vague. He was convinced of Hardy's innocence. The government could make much of little. When one faced the government, a good attorney was needed. No, there was little said that most people didn't already know. Perhaps the only point of contention was that a good many people were not "amazed" at the fact that the government had issued an indictment on the charges that now faced Hardy. How they came to amaze Clark was a matter that only he could resolve.

Within days, there was some response to the pleas of Maddux and Clark. Loyal persons believing in the system donated to the fund believing that Hardy was a victim of his times and circumstances. The big brother image of government had invaded the private domain of Smith County, and that could not be tolerated. Still, there were other responses that were not those of contributions. One of the more enlightening ones read:

"Rev. Maddux - Your letter seems to be long on verbage and short on facts. It seems that I recall Chief Hardy and his associates testifying in State

Court that those same 'perjurers, self-confessed arsonists and felons' had verified their testimony (in State Court) by an 'independent polygraph examination.'

"You are a minister but you seem to have 'Mr. Wortham' and Satan confused. Hardy was not indicted by Mr. Wortham but by a Federal Grand Jury composed of U.S. citizens of the area.

"You would probably contend that Willie Hardy was innocent and busy fighting 'organized crime' when in early summer of 1979 he was stopped for speeding by Texas Highway Patrolman Ken Sellers on I-20 while illegally driving a confiscated automobile.

"Because of the ineptness of Mr. Hardy we have seen some innocent people in prison and some of the guilty will now be freed.

"It is our sincere hope that you are more aware of the duties of your church and the teachings of Christ than you are of police matters. If not, we will be praying for your congregation."

Other responses dealt with Maddux's claim that the government's case was built upon the testimony of perjurers, arsonists, and felons granted immunities. He was reminded that A. D. Etheridge was not a perjurer, arsonist or felon, yet he had testified against Hardy. Charles Carver was not of this unsavory bent, but had testified against Hardy. Stuart Dowell was certainly none of these things, but had spoken against the chief. Had the writers known more of the circumstances, it would surely have been noted that while some had been granted immunity, Tim McGuire had never been charged with a crime in reported return for his assistance in the drug bust and others had escaped indictment through the same process.

Maddux, most likely, was operating under the same influences as had H. Ross Perot. He was led by information provided to him, and probably did little research into the matter himself. Whether or not such research would have altered his adamant stance to Hardy's innocence is conjecture. For the moment, however, he had joined hands with Charles Clark in a public relations movement intended to cleanse Willie Hardy of the charges pending against him.

Strangely, while Maddux seemed to hold it against federal prosecutors for believing early in the federal investigation that an indictment would be forthcoming, he found no fault in the statement of Charles Clark that,

"From the very beginning we felt that someone was going to be indicted and probably Chief Hardy..." Apparently, it was all right for Clark to have such a view, but a tort if the view was shared by federal authorities.

It is also interesting that Clark wrote, "Bob Stevens, formerly with the FBI, and I have worked since May of this (last) year investigating various allegations against the Tyler Police Department." The federal grand jury did not begin their session until late August of 1981. For Clark and Stevens to have been investigating such allegations of the department as a whole since May of 1980 appears to be rather unusual. There was no indication within the statement as to whom had sanctioned their investigation or its purpose. As a private investigator, someone was surely paying Stevens for his work, yet there was no signal as to the client in such a probe or who had asked the private attorney, Charles Clark to have such an involvement. Apparently, the anticipation of Willie Hardy had begun long before most citizens had realized.

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With Hardy operating within the department as an Assistant Chief, the aggressive Tyler Patrolman's Association was incensed. Leo Britton may have been serving as the Acting Chief, but Hardy left his pictures and plaques on the wall of the office as if a memorandum of MacArthur's infamous statement, "I shall return."

Orin Hale, the vocal president of the dissident patrolmen's organization, hotly informed area media members that it was the consensus of the patrolmen's group that Hardy should be suspended from the department until the trial had reached its conclusion. Hale maintained that the patrolmen felt that to have Hardy continue in a role of authority within the department brought an "extremely low morale" to the men and did not serve the best interests of the department.

Tyler's Mayor, Robert Nall, a long-time supporter of Hardy and Wagoner, rallied to the chief's defense the following week. In a two-and-a-half page prepared statement, the Mayor stated:

"The Tyler Patrolmen's Association has been very vocal in insisting that Deputy Police Chief Willie Hardy be suspended by reason of his having been indicted. As mayor of this city, I recognize the right of all citizens

and members of this organization to exercise their right of free speech. By the same token, as mayor, I feel it is proper that certain statements which I think are misleading call for a response from me.

"First, I want to make it abundantly clear that I personally think the presumption of innocence to be one of the most valuable rights we enjoy as citizens of this great country. Chief Hardy is entitled to this presumption. It is distressing to me to see a group of police officers who either do not understand this or simply are ignoring it in this case.

"Second, Chief Hardy was not demoted. He voluntarily availed himself of a statutory right to return to the rank he held before being named police chief. The statute does not give the city an option but to accept this request by Chief Hardy. As deputy chief, he is under civil service.

"It is my further understanding that no police officer can be suspended for an act which occurred more than six months before charges are filed. Also, mere indictment does not afford a basis for bringing charges under civil service. I have visited with our city attorney about this and have sought the advice of other legal counsel, and they are both in agreement.

"Therefore, it is obvious that those who seek suspension of Deputy Chief Hardy would deny him the presumption of innocence and with it the right of a fair trial, which I consider morally and ethically wrong. Also, it would, in my opinion, be an illegal act which as mayor I am totally against.

"Hopefully, all members of our police department will continue to do the excellent job they have done in the past. It seems clear that the matter concerning Deputy Chief Hardy will have to be resolved in court.

"I call on all citizens, including members of the patrolmen's association, to indulge the presumption of innocence to all persons to insure that any accused person, whoever he or she may be, is afforded a fair trial."

To the patrolmen returning from their shifts and pulling their garb from their bodies in the police department's locker room, the statement was incredulous. They fumed with the memory of those officers, having equal protection under civil service guidelines, who had been suspended or driven from their ranks by the actions of the high echelons of the department. In theory, the mayor was right, but in practice within the ranks, he was a baby in the wilderness, unknowing of the methods and

guiles of the police administration.

"You know," moaned one officer as he leaned wearily against the locker door, "I had to cash a check at Kroger's the other night. The girl asked me where I worked and before I knew it, I was telling her that I worked at Tyler Pipe. There were a lot of people in the line behind me and I just didn't want to say that I was a cop. A cop in Tyler. Isn't that a helluva note?"

A colleague laughed from across the room. "Tell you what," he began, "my mother-in-law's asking me why I don't get outta' here and get myself an honest job. She used to be like one of those Jewish mothers talking about her son being a doctor. My son-in-law's a policeman," he related with shrill tones of mocking. "Now, she doesn't even want to admit she had a son-in-law."

David Swain, a street-wise cop with tenure, glared at the men from his place on a bench where he laced his shoes. For the moment, he could think of no other topic that would more enrage him. Jerking at the laces, he swiftly looped the knot and stood to close his locker door.

"Let me tell you guys something," he began angrily. "I was hired to be a cop in this city. I'm supposed to be out there making sure that the good people don't get taken over by the bad ones. That's my job. Nothing less and nothing more. And that's your job - every one of you. It's a damned hard job and one that you can take pride in. I'm not going to pretend to anyone that I'm anything else. I'm proud of what I do and I do it the best I can. What other people do is their business. I do what I think is right and I don't owe an apology to anyone. You can do what you want, but I'm going to wear this badge and hold my head up. There's not a one of you in this room that can't do the same thing. There's not one of you who doesn't have the right to be proud of what he does. I'm a cop in Tyler, Texas. I give the people what they have a right to expect from me. I'll be damned if I'll be ashamed of that!"

In a long moment of silence, the men looked nervously at one another. Slowly, smiles appeared upon their faces and they maintained the stillness as testimony that Swain was right. They had nothing to be ashamed of, and they would never again hide the fact that they were honest men doing a job that was sorely needed within the city.

In speaking with literally hundreds of people in preparation for this book, there were always those who agreed to speak with me, but insisted that I not use their names. In those cases where such identities were not critical to the content of the book, I willingly accepted this condition and have steadfastly kept my work to them throughout this writing. It would be an injustice, however, not to mention one character of particular renown who stood forth as one of the more delightful characters I was to encounter. He was a crusty soul of advanced years with a fearless eagerness to speak his mind. His tendency to be so candid often brought embarrassment to his wife and she had learned that to be humiliated by her husband's statements was but a bi-product to the wonder of the years he had given to her. While she was constantly braced for his acute honesty under any circumstances, she also had come to respect him for this trait and admire his courage even though she concealed her admiration beneath the blush of constant shock.

Pages could be written about his ability to blend humor with an event of any magnitude. On the day his son departed for college, he called him to the front porch to grant him a gem of his wisdom. "If you're tempted to marry some young thing you meet while you're away," he began seriously, "just remember that somewhere out there lives the perfect woman. Don't be satisfied until you find her."

The son was confused with the comment. A perfect woman? Could such a creature ever exist?

"Just keep your eyes open," the old man related. "She's there somewhere, believe me."

"Okay," smiled the young man. "I'll do that."

"Good," the father replied. "I looked for her for years, but settled on your mother. She's as good as I could find."

From the screened door, the old man's wife had waited beside the boy's luggage and had overheard the conversation. Attuned to his husband's strange nature, she could not resist eavesdropping. Now, she could no longer contain herself.

"The best you could find, huh?" she said bitterly. "Would you mind telling both of us what it was you were looking for?"

"Yep," said the old man with a squint in her direction. He placed his hand on his son's shoulder. "Just keep looking until you find a deaf and

dumb nymphomaniac who owns a liquor store."

With her knowledge of his idiosyncrasies, the wife was startled to thumb through the day's mail and discover the letter from Rev. Maddux appealing for money for Hardy's defense fund. There was no other way to deal with her husband other than to approach a topic directly.

"Did you see the letter about Willie Hardy?" she asked. "

"Yep."

"You didn't call him or anything did you?" she asked fearfully.

"Nope. Didn't call him."

The answer was evasive enough for her fears to mount. She placed her hands on her abundant hips and scowled. "What did you do?"

"I just answered his letter," replied the man as he reviewed the evening paper.

"Dear God," she moaned. "Is it already in the mail?"

"Yep."

"What did you say?"

"I told him to get screwed."

"Oh, dear Lord!" she gasped.

"Now, don't get yourself all worked up," he warned. "Did you sign it?"

"Yep."

"Why? Just tell me that! Why?"

"Well," he drawled. "I wouldn't have wasted my time writing at all if there hadn't been a stamped envelope in it."

The woman sprawled in a chair. "Our name's going to be ruined!"

The old man smiled. "Good, then we'll start a citizen's committee for us!"

As she neared apoplexy, the old man agreed to write another letter that would make amends for his impulsive response of that day. She haunted him with queries of whether or not he had written the second letter. At last, he assured her that the matter had been taken care of. She could now relax and feel confident that members of Maddux's church would not shun her at the bridge club. She smiled sweetly and thanked him for compromising his principles for her. He was even graced with a kiss.

The following day, Rev. Maddux received the letter from the old man and read the commentary that the enclosed donation to the defense fund was in direction proportion to the damage done to Hardy's reputation. The old man had inserted a single penny.

"Going to court is like getting a vasectomy. You know that everything's going to be all right, but you'll never be the same again."

Art Buchwald

A TIME OF TRIAL

It is necessary at this point to pause and reconstruct the myriad of events that made this period of Smith County history complex and difficult to unravel. The duplicity of charges (Smith and Hardy) added to the confusion of the times and created a time span defying all attempts to describe. Yet, in the midst of all such happenings, certain elements emerged that placed a new perspective on all that would happen in the future. On October 7, 1981, for instance, Creig and Kim Matthews admitted to federal authorities that they did not know the identity of the assailant who shot and wounded Creig. Matthews was to conclude his admission with the statement, "I am afraid to find out who shot me." An article appearing in the Tyler Courier-Times concluded with, "Both agents appeared before the grand jury after their guilty pleas on conspiracy with others not named. The pair agreed to cooperate fully with federal authorities."¹⁵²

The admission was the final stroke in relieving Bora of all suspicion within the web of the investigation. The narcs had already confessed that Bora had been framed on the cocaine delivery charge, and now they were retracting their earlier accusations that Kenneth Bora had been the gunman seen the night of the shooting. Kim Ramsey, who once had stated that she looked up to see Bora's smiling face, now confessed that she had no idea who had actually pulled the trigger. It was the moment of Bora's final vindication and only the most radical proponents of the purity of the

¹⁵² Tyler Courier-Times, Wednesday, October 7, 1981, "Former Officers Admit Assailant Still Mystery."

police department would believe otherwise. These would form that cult of fantasy believing that Bora had paid off Matthews and Ramsey to change their testimony and to relieve him of all guilt. Such theories were attractive to the more naive, but less than credible in the light of hard evidence.

On October 11, 1981, newspaper accounts revealed that Bora was a target of the Tyler Police Department from the very conception of a drug bust. The article read: "A plan was formed as early as the fall of 1978 for a paid informant to set up Ken Bora for an arrest on charges of distribution of narcotics and stolen merchandise, but the plan broke down over the sum of money for the snitch, the Courier-Times-Telegraph has learned.

"Negotiations were begun with an informant in October or November 1978, by Tyler Police Chief Ronnie Malloch, a source said.

"Malloch, who was killed Dec. 10, 1978, sent Assistant Chief Willie Hardy to discuss the deal with the informant, the source said. Hardy became chief after Malloch's death.

"The deal broke down before plans were made on how the set-up would be accomplished, the source said. Malloch had considered spending up to \$10,000 on the deal, but Hardy offered a smaller sum, about \$3,000," the source recalled.

"Malloch thought Bora was distributing the drugs and narcotics out of one of the private clubs in Tyler Bora was associated with," the source said.

"God only knows if the information was righteous or if Malloch was out to get Bora," the source said.

"Another source quoted Hardy as saying, 'we'll get him another way,' when the deal was not accepted...."¹⁵³

What that "other way" may have been opened many doors to speculation and supported those who chose to believe that Bora had been the victim of a long-term conspiracy. Still, it was apparent that Creig and Kim were not the most credible witnesses and the fact that much of the information coming from the grand jury chambers originated with them kept a jaundiced eye turned upon the revelations. In short, no one knew what to

153 Tyler Morning Telegraph, Sunday, October 11, 1981, "Plan To Arrest Bora Said Formulated In 1978."

believe, but it was evident that a collection of untruths had filtered throughout the system for a time longer than anyone wanted to recall.

If the narcs were not easily believed, there remained the other personalities now leveling charges against Hardy. A.D. Etheridge and Mike Lusk were foremost among them. Both had been vice division officers with Lusk once supervising that department. Obviously, it would be Lusk who had the greater insights into the workings of the agency and the keeper of many of its secrets. For a while, he had operated within the "inner circle" and had been confidant to many of its intrigues. Lusk had been the one monitoring the secret taping of Calhoun, and it had been Lusk who served as the narc's supervisor through much of the drug investigation. Likewise, Lusk had been the one Kim had contacted upon her discovery that Creig was strung out on drugs. Now, it was Lusk telling the Federal grand jury that he had brought Matthews' addiction to the attention of Willie Hardy and the chief had chosen not to do anything about it.

It is not difficult to imagine what would have happened had not Mike Lusk come forward and revealed all that he knew to authorities. It had been his confessions that led Kim and Creig to their decision to level with FBI agents. Had he not chosen to reveal all that he knew, there is little reason to believe that the drug bust would have been installed as the high point of the Tyler Police Department's achievements and the circle of power would have remained intact in their role of oppressive dominance. It had been Lusk who truly turned the tide, and few people recognized the magnitude of his contributions.

Yet, why should a career officer with the department who had risen from the ranks to being the commander of a prime division suddenly decide to jeopardize his future and break the silent code of law enforcement wherein officers support fellow officers at all costs? In Lusk's case, it was a matter of conscience. Unlike Matthews and Ramsey, there was no rationale of logistics - if-we-do-this,-they'll-do-that sort of reasoning - rather, it was the simple matter of having done things that were wrong for so long that it was finally time to do something right.

In those days of corrupt turbulence within the department, Lusk had found himself wrestling with his sense of right and wrong. He could recall many instances wherein he had violated the knowledge of his ethics, and

the recollection pained him. He could particularly recall a time spent in the apartment of Creig Matthews.

It had been a strange turn of events. Within the department there existed that aura of camaraderie wherein officers and their families joined in social affairs and shared backyard cookouts and treks to the lake. For Kim and Creig, however, such occasions were non-existent. They remained on the outer fringes of the department's society and never responded to invitations that would have brought them closer to the fraternity of their peers. Yet, on this day, Kim and Creig had volunteered to have an outing of sorts with the Lusks. "We'll just have a cookout and relax," Creig had offered. "We'll have a righteous time of it."

The arrangements were made and the couples met at Lusk's home. After the fire had been lit and the steaks placed on glowing charcoal, Creig stated that he had to go to his apartment for something he had forgotten and asked Mike to go along. Lusk readily agreed and soon found himself standing in Creig's quarters.

"Sit down," ordered Matthews, "I've got something I've been wanting to talk to you about."

Lusk complied with a frown and noted that Matthews appeared nervous. Perhaps it was the fact that the bust out had been completed and he was unwinding from all of its pressures. Maybe it was because Matthews and Lusk had been scheduled to go on loan to the Nacogdoches Police Department to do an undercover operation there. It could be many things, but he decided to be patient and hear Matthews out.

"We have this thing in Nacogdoches in head of us," Matthews advised. "And we'll be working together."

"Yeah," agreed Lusk.

"Well, look, there's a lot about this business that you don't know. That's not a slam against you, it's just the way it is. But I'm going to do something now that'll help you in the long run. Before I do, you can look the place over. No wires, no tapes. I'm not trying to get anything on you. It's just that we're gonna' be in Nacogdoches looking for dopers, right? I've got a helluva long time in doing that. I know what it's all about. And I'll tell you right now that you'd better know what you're talking about when you meet those folks head on. You'd better know what they mean when they talk about a high and the feeling of it. You understand?"

Lusk deepened his frown. "I guess so."

Matthews smiled coyly, reaching into a drawer and retrieving a small vial wrapped in a piece of cloth. "I've got some stuff here that's pure shit," announced Matthews. "Almost ninety percent pure. That's the best you're ever gonna' find." From his pocket, he retrieved a \$100 bill and folded it neatly into a rail. The white powder was deposited within the rail and Matthews sniffed quickly, a short, violent sniff. "That's the long and short of it. You just have to know." Matthews sprinkled more cocaine into the rail and held it forth toward Lusk. "Try it," he commanded.

"Hey, I don't know," stammered Lusk. "Isn't that stuff addictive? I sure as hell wouldn't want to get hooked on it."

"It's not physically addictive," chuckled Matthews. "Mentally, yes. But you're strong and there's not much chance of that happening. Take it." Cautiously, Lusk took the rail and held it closely to his nostrils. He gave a final apprehensive glance toward Matthews before snorting. Within minutes, he felt the top of his head elevate to ecstatic heights. He kept his ability to function and reason, and knew in that moment that cocaine was nothing like what he had expected. It was euphoric. He experienced the sense of well being and security. He knew he could encounter all things and deal with them effectively. He now understood why Matthews had once commented after snorting the powder, "Ask me what time it is and I'll tell you how to build a clock."

"Okay!" laughed Matthews. "How's that? Now you have something on me and I have something on you. We'll never mention what we've done to anyone. That's the way it has to be. But you had to know if you're gonna be a narc."

In the months that followed, the experience troubled Lusk. He had no one to confide in. His marriage was weakened by his work and long hours. The communication with his wife had diminished into almost silence. There was no one. Now, however, he could detect many other things. He had a new perception into the workings of the narcs and could perceive that they operated on the fringes of the laws they were sworn to uphold and enforce. No, he realized that they were not even on the fringes - they were on the other side, breaking the laws and making a mockery of their profession.

With time, Lusk's conscience gnawed at him so greatly that he turned

to the only person he could imagine would lend him a sympathetic ear. He visited with his mother, a woman of sound character built upon concrete images of right and wrong. "The truth is the truth, Mike," she informed him. "There's no substitute for it. When the time comes, you'll have to have the courage to deal with it."

Perhaps the impact of his conscience was visible upon him. It was not long before the symptoms of official disfavor fell upon him. His evaluation rates fell from near perfect scores to lower than average marks. Hardy was to criticize, "You never know where your people are." It was apparent that the fair-haired boy days were drawing to a close.

It was in the locker room of the department that Lusk found the opportunity described by his mother. He was changing clothes when he noticed Joe Dillman standing nearby. Dillman had been silent, which was uncharacteristic of him. Lusk had considered Dillman as a friend, but now there appeared to be an odd division between them. Lusk knew that there were renegade forces within the department. Orin Hale and his dissident group had been chastised in many closed meetings and Lusk suspected that Dillman's alliance was with Hale.

"Hi, Joe," he offered, noting that Dillman merely nodded his response with an expression of confusion. "What's up?"

Dillman moved closer to him, glancing about nervously. "Look, Mike, I'm gonna do something maybe I shouldn't. I might be blowing everything to hell, but I have to do it. I've always thought of you as a friend and there's some of the guys who would hate my guts for doing this, but I'm gonna take the chance."

"Whadya talking about?" asked Lusk.

"Mike, some of the guys have been talking with Stuart Dowell. We know that Dowell will listen and keep his mouth shut. Nothing will get back to the department. Stuart would like to talk to you. Some of the guys think that if I say something like this to you, you'll run back to Hardy with it. I don't think so. I think you'll do what's right. I just want you to know that Dowell will talk to you. You can trust him. That's all I wanted to say.

Lusk nodded slowly, watching Dillman turn and walk away. Had he strayed so far from the fold that even his closer friends distrusted him? Had he become so aligned with the administration that he was held in

suspect by even his friends? The questions troubled him.

That afternoon, Lusk called Dowell from a pay phone and arranged an appointment to confer with the Texas Ranger. Dowell made it clear. There would be no promises of immunity if Lusk gave information that was self incriminating. Dowell was not authorized to speak for the federal government. Lusk would have no way of knowing what would happen to him. Still, Mike Lusk decided to come forward and tell the truth. The entire truth of the saga of the drug investigation and all of its intrigues. He had achieved what his mother had prophesied. He had shown the courage to do what was right.

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There was no denying that Lusk knew a great deal. He would reveal that a plan was hatched within the police department to exterminate Patrick "Cowboy" Denmark. He could testify to Matthews' drug usage and addiction. He could recount the incident of his informing Hardy of Creig's condition. He could provide details about the taping of Judge Calhoun. He would tell of juggling expense vouchers to cover for missing funds. Yes, Lusk knew a great deal.

The spectre of Lusk's revelations was sufficient cause for Matthews and Ramsey to decide to join his exposé. They would voluntarily merge their testimony with Lusk's in a damning indictment against the police department. They would later agree that Lusk had done them a great favor by telling the truth, but would also admit that they would never have come forward themselves if Lusk had not exposed them first.

If there were to be delayed recognitions from those involved, certainly Lusk was to have some of his own. It was months later when he suddenly realized that as the youthful, naive commander of the vice division, Hardy and his clan would only have to state that it had been Lusk who kept vital information from them and withheld knowledge of Creig's addiction. They could claim that Lusk, in his position, had manipulated information and was the key figure in creating the problems encountered during the investigation. Had the chips fallen a different way, Mike Lusk knew that he would have been sacrificed to protect the reputations of his superiors.

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It was a time of resolution. Final chapters were being written to the entire drama of corruption and turmoil of Tyler's darkest hours. On Friday, October 30, 1981, Dottie Roark and Glenn McCasland filed a story that served as the closing hallmark of a sordid tale.

"Smith County District Judges Galloway Calhoun and Donald Carroll today filed motions dismissing nine pending cases from the 1978-1979 Tyler Police Department drug investigation and paved the way for new trials for the defendants convicted by trial or pleas to seek new legal hearings.

"The action was announced in a joint press conference at 11:45 a.m. today in Judge Calhoun's courtroom minutes after the motions to dismiss were placed on file in District Clerk Brad Burger's office.

"Speaking to some 20 persons, mostly media representatives, the judges explained the motions which would dismiss two cases pending before Calhoun and seven before Carroll.

"The judges also granted a request by Smith County District Attorney Hunter Brush to allow defense attorneys representing convicted drug bust defendants to seek new trials because of 'new evidence' which has been discovered.

"Judge Calhoun said it is likely all the new trials granted on the basis of the 'newly discovered evidence' will be dismissed on the basis of insufficient evidence.

" 'Neither the courts, the district attorney, nor any part of the judicial system can condone prosecution based upon tainted evidence,' he said...."

With the declaration, the way was cleared for the bulk of the drug defendants to have their names cleared of all charges. With a dismissal, their records would be void of any criminal past and they would walk among men as freely and as innocent of wrong doing as the purest among them. For some, it was a salvation from the horrors of entrapment, false accusation, wrongful conviction, and official vengeance. For most, however, it was merely a second chance. They had been guilty of much, and manna from heaven had fallen upon them.

For all, however, it was a vindication. When they had lifted their voices in protest to the actions and methods of the narcs, no one would listen. They had been "only dopers" and their cries fell upon the wilder-

ness of a biased public. Now, their words had been echoed within the halls of justice and no one could deny that theirs had been the words of truth. Those who had turned away from them would now have to realize that the extent of their wrongs was only mirrored within the wrongs committed by the system itself. It was a time of renewal, and the defendants silently rejoiced.

He had not been a defendant. Timothy Joe McGuire had escaped indictment through his cooperation with the narcs, but during this period, the tables had turned so completely that he stood alone as one of the participants in Tyler's drug culture who could not relish in the dismissals. McGuire was appearing before U.S. Judge William Wayne Justice. On the same day that the Tyler Courier-Times announced in banner headlines that Willie Hardy had been indicted by the Federal grand jury, a front page article by George Conner, Jr. read: "Timothy Joe McGuire, 23, a one-time 'volunteer' worker for undercover agents in a 1978-79 drug investigation for Tyler's Police Department, today pleaded guilty to a federal misdemeanor charge of giving false testimony in one of the drug cases.

"McGuire told U.S. Judge William Wayne Justice that he and former undercover narcotics agent Creig Matthews agreed to give false testimony in a state case against Michael Cook.

"The plea today was on a plea bargaining arrangement, part of which was ordered sealed by Judge Justice at the request of Assistant U.S. District Attorney Bill Cornelius.

"McGuire told Judge Justice that on Aug. 27, 1979, he testified Cook had offered to sell him some marijuana on March 16, 1979.

"This is what McGuire and Matthews agreed to before the trial had begun and was not the truth, McGuire testified today...."¹⁵⁴

One by one, the cards were falling from the stacked deck of the city's power structure. Tim McGuire, the gun-toting sidekick of the narcs was

154 Tyler Courier-Times, November 25, 1981, Wednesday, "Drug Informant Admits Lying. "

now reduced to an informant for the government and had agreed to "cooperate wholly" with the investigation. Surely by now he was used to such cooperation.

The article included the interesting admission by McGuire, summarized as, "McGuire, who was once arrested for carrying a pistol into the courtroom during the trial of a drug defendant, told the judge he offered his services to Matthews in hopes of getting 'leniency' in a case Matthews had filed against him."

Apparently, the hope had come true. McGuire had never been charged with a crime even though his admission clearly indicated that Matthews had one prepared. Again, such immunities granted by a law enforcement agency, without the approval and endorsement of the district attorney, are illegal. Yet, in the case of Timothy McGuire, this is exactly what had happened.

By November 26, 1981, Deputy Chief of Police Leo Britton had been elevated into the role of acting chief of the department. Oddly, Ed Wagoner had passed the chance of promoting Kenneth Findley into that position, and speculation was rampant as to his reasons. It was known that Findley's name had been mentioned by the grand jury upon occasions, and rumors now contained the message that Findley would be indicted at a later date for some alleged complicity with Hardy. For this reason, the rumor mongers maintained, Findley had not been considered for the post.

As Wagoner publicly announced that Britton was the new acting chief, he also revealed a recent development. "I received a request this afternoon from Chief of Police Willie Hardy asking that he be reassigned to the position of deputy chief of police, which he previously held in the Tyler Police Department. In accordance with the Texas Civil Service Code, under which the police department operates, I have granted his request, effective Saturday.

"I have designated Deputy Chief Leo Britton to serve as acting chief for an indefinite period of time."

Most analysts could now perceive that Britton had been elevated to vacate his position for Hardy. It was a swapping of roles, but the patrolmen feared that Hardy would still call the shots and keep his role of dominance within the department. They objected to the fact that Hardy

had not even removed his personal plaques from the walls of the office now occupied by Britton, considering it a silent promise that Hardy would be returning to his old job. They smoldered with the act, considering it one of absolute arrogance, and the Patrolmen's Association called for Hardy's suspension.

It was a time of great confusion where the events of the day were muddled with their diverse issues and personalities and historians would later find great difficulty in relating them in any form or order. So it was within the region and the common people given to a life of extreme order and repetition could not comprehend the intricate network of events. It was easier to ignore them, and most did.

Those opposing the reassignment of Hardy were vocal indeed. Andrew Melontree, the self-avowed renegade of the council, declared, "I remain in a state of confusion regarding the statute which provides this cloak of immunity for Mr. Hardy, which the city manager has accorded to Mr. Hardy."

Councilman Glenn Taylor announced, "I left the city before Mr. Wagoner took the action to reassign Mr. Hardy. I had said I wouldn't be able to support the chief under these conditions. . . ."

A Tyler police officer asking not to be identified, related that "two Tyler patrolmen were accused of keeping a gun which belonged to an illegal alien without reporting confiscating the weapon and (were) dismissed from the department.

"The charges involved were dropped by the Smith County district attorney, but the two men lost their jobs like a snap of the finger. They were not afforded the innocent until proven guilty at all. They were filed on and dismissed. Neither were offered their jobs back after the DA dismissed the charges."

What was good for the goose was not always good for the gander. Willie Hardy would be protected by Civil Service provisions, while officials forgot that the two officers used as an example were also under the umbrella of that protection. The difference was obvious. They were patrolmen - this was the chief. They were without influence - and Hardy dwelled within the inner circle of power. They were expendable without threat of retaliation. And, finally, it all happened within Smith County.

The throes of winter now embraced the land. Steel grey skies sported pregnant clouds and brisk winds chilled those who filed into the United States Federal Building to hear the beginning of the government's case against Willie Hardy. Only a short time before, they had witnessed the trial of J.B. Smith in his efforts to have the state restrained from further prosecution. That matter had been less dramatic and had not been immediately concluded. Judge Justice had informed the attorneys that he would consider the case and render his decision at a later date. In the Hardy trial, however, there would be a jury. There would be no limbo of wonder. A decision would be reached and the drama increased because of it.

The jury had been selected quickly. The intricate "striking" procedures of a federal court were different from the state's, and the defense attorney had the right to "strike" or dismiss six prospective jurors while the prosecution was permitted only three. This process holds great jeopardy for the prosecution, for if sound research is not done into the jury selection procedures, their minimal "strikes" can be exhausted, leaving undesirable jurors on the panel. It is a legal chess game of sorts, and has given many federal prosecutors prematurely grey hair. Within hours, however, the jury had been selected: Dorothy Cain, Charles W. Schreiber, Dora M. Morgan, Lillie Jumper Weaver, Otis Lovell Maines, Billy Noel Martin, Mildred S. Lewis, Van Robert, Jennie B. Richeson, Jan Blankenship Harris, Jurica Rheneh Jordan, and Luther H. Craven. Seven women and five men. Clyde J. Powell and Fred C. Davis were selected as alternates.

Oddly, not one of the twelve jurors was from Tyler. Both of the alternates were.

Slander is a state offense. It requires the proof of malicious damage to one's reputation by falsehoods propagated by another. Yet, within the same structure of those laws, it is also provided that no witness or attorney can be sued for slander for utterances made within the course of a trial. With this protective shield, attorneys are permitted to assail the character of anyone without the fear of civil retaliation. On the first day of the Hardy trial, the defense attorney, Rex Houston, made the most of this protection.

Even though Kenneth Bora had been cleared of all charges, Houston

saw fit to launch into a character assassination of astounding proportions. "You had one Ken Bora who had come into Tyler some year or two years earlier and with his partner, Frank Hillin, had opened up not one but two nightclubs. This man, Ken Bora, had become known as the porno king, the pornographic king of East Texas. His nightclubs were known as veritable cesspools of drug users. It was common street talk that you could go there and get drugs. It was common street talk that he was taking twelve, thirteen, and fourteen year old girls and through the use of drugs or whatever they do with them making pornographic movies with them. He had a porno background in the City of Dallas which was known."¹⁵⁵

Houston's allegations reached incredible limits while attempting to impress the jury with possible reasons why Kim and Creig had suddenly changed their testimony.

"I'm going to submit to you that when we finish I won't know for sure and you probably will not know exactly what caused their flip-flop or turn around after such a long period of time. Look at it closely. You have the duty as jurors to do it. You have a man's life in your hands. You have his future and his family's future in your hands. Something happened that I possibly will not even be able to guarantee you about or tell you about, but some type of consideration or remuneration, some type of promise or threat, was made to them far beyond the promise of leniency or immunity already promised by the government. It was sufficient to get a man out of the penitentiary who was there, and there was only one way known to man that he could be turned loose, and that was for Kim Ramsey to come in and say, 'Well, I was wrong when I said that he was the man that shot us, even though I swore under oath over and over that I recognized him and he's the man with the shotgun that shot us.

"She comes in. She's the sole identifying witness, and by reversing her story he gets out and walks your streets again. You'll have to be the judge."¹⁵⁶

It did not matter to Houston that Bora had been found guilty of none of the things he now charged against him. It was of little consequence that most of the allegations he placed against Bora were nothing more

155 United States of America vs. Willie Hardy, TY-81-43-CR, pg. 57, Vol. 1

156 United States of America vs. Willie Hardy, TY-81-43-CR, pg. 70-71, Vol. 1

than the scuttlebutt of the police department and had never had support in evidence or fact. It would be a case again of the desecration of Kenneth Bora for the sake of Willie Hardy, and it seemed the proper thing to do. It seemed reasonable to suggest to the jury that the narcs had been paid off to change their testimony, even though there was no evidence to promote such a claim, and that argument was extended with the innuendo that the payoff had come from none other than Bora himself. It was a wholly unsubstantiated charge, filled with the tapestry of Houston's imagination, yet it was incorporated within his opening statements in the attempt to impress upon the jury the depravity of Bora, the constant threat to the community of Bora's mere presence.

Rex Houston was everything Charles Clark had stated in his fundraising letter. He was indeed a competent attorney with a quick mind and a strong tendency to prompt analysis. His tongue was always poised with questions woven to state one issue, but always hinting that another, more destructive question rested beneath the surface. In his rural home-base of Henderson, Texas, he had become the dean of that region's attorneys, having gained no small degree of fame in the famous Texas oil cases involving slant drilling. Hard working and methodical, Houston waded through his cases, always armed with a collection of data that appeared impressive whether it was ever used in the courtroom or not. An imposing figure, his burly frame gave testimony to a man of power and strength. His eyes could glare into the faces of jurors, defying them to find another solution to a case other than the posture he represented in his imposing firmness. There could be little question that Charles Clark had been right. Rex Houston was probably the best choice Willie Hardy could have made.

Even so, the opening statement of Rex Houston had been filled with gross misrepresentations that were to be later revealed within court testimony.

With the conclusion of the opening arguments, the prosecution producing a damning portrait of Willie Hardy while Houston characterized him as the reputable family man dedicated to public service, the people within the courtroom settled back, knowing that the battle lines had been drawn and that they would be witness to a classic contest between Rex Houston and the Government of the United States.

The prosecution consisted of three attorneys. Robert J. Wortham, the able attorney who had inherited the position as United States Attorney for the district with the resignation of John Hannah, appeared to be the captain of the prosecutorial team. William J. Cornelius, the Assistant United States Attorney in the Tyler office, assisted Wortham. At last, the Feds had imported Daniel L. Bell, II, a reported prosecutorial expert from the Civil Rights Division, Criminal Section, of the U.S. Department of Justice in Washington. Bell's presence was first interpreted as evidence of how badly the government wanted to convict Willie Hardy, and the people waited for the flow of eloquence and the depths of knowledge that would come from the man. Instead, they found a man confused by the mystique of the area. Bell, in all of his awareness of the judicial system, had not reckoned with the fact that he would be that city-slicker, Yankee intruder into the ranks of Smith County. He would not be endeared and his efforts could not counter the stigma of his Yankee accent or the brash, matter-of-fact language atypical to his native region. To the East Texas framework of thought, the trio of prosecutors did not so much indicate the power of the Federal system, but offered an image of a government outnumbering the defense three-to-one, and East Texans have a deeply instilled sense of fairness. The government was simply not being fair in their outnumbering of the lowly, singular guardian of the defense, Rex Houston.

It had been the night before that the naive Bell had inquired of his prosecution associates, "Have we done any checking on Houston?" "What do you mean?" asked Cornelius.

"Have we gone over to Henderson and dug around any? Do we have any kind of idea of what sort of man he is? Has there been any background work on him at all so that we have some idea of his track record, his ethics, or what we might expect from him?"

Wortham grinned. "You mean, go to Henderson and check him out?" "Yes," replied Bell.

Cornelius chuckled. "Check him out how?" he asked.

"Check with the people, the courts, other attorneys, court clerks, any way you can."

Cornelius widened his grin. "In East Texas, you don't do that. Henderson is Houston's territory. He owns it. Those who don't love him, fear

him or respect him. Going over there and trying to do a number on him would be about as useless as rearranging the deck chairs on the Titanic?" Bell had frowned deeply with the announcement. East Texas was a different place. It had different people. It had different values. It was a different planet.

Now, it had come to the moment the people had long awaited. The battle would begin with the definition of the first issues. Would the prosecution build their case slowly with the presentation of testimony from less important witnesses and then bring out their big guns, or would they attack head on with the prime characters?

"Who will be the United States first witness?" Judge Justice was asking.

"Mr. Creig Matthews, Your Honor."

The question was resolved. The government would begin with their most penetrating attack. The big guns were poised. Matthews, Ramsey (now Mrs. Matthews) and Mike Lusk would be on tap at the very onset of the proceedings.

It had been Cornelius who had praised Lusk in his opening statements to the jury. It was not only to clarify Lusk's position in the case, but to indicate that he was a man of principles who had surrendered to his sense of justice. ". . . he was the one conspirator out of the group of four who came forward freely and voluntarily at the beginning of the federal investigation and told what we believed to be the truth. The story he told then is consistent with what he says now and he told that story at very much risk to his own freedom. He jeopardized his freedom and placed himself in the position of being prosecuted prior to any grant of immunity, but it was because he came forward without compulsion that the decision was made to grant the immunity."¹⁵⁷

At this point, the earliest moments of the trial, it was apparent that Houston had made the greater impact in the opening arguments. This analysis is not intended as a discredit to Bill Cornelius, but is a simple statement of fact, representing the viewpoint of those who witnessed the trial. Cornelius had surrendered weakly on some issues, for instance, in stating: "Of course, the credibility of Kim Matthews, Creig Matthews and

¹⁵⁷ United States of America vs. Willie Hardy, TY-81-43-CR, pg. 3, Vol. T-1.

Michael Lusk is subject to attack. Now, you've already gotten an idea of that from Mr. Houston's questions earlier. Of course, we do not hide the fact that they are admitted perjurers. They have lied before. We believe that you will find them believable in this courtroom, but we take the case as we find it. We don't apologize for them, but I think we will also present other witnesses whose credibility is not subject to the same kind of attack as are these three."

If Cornelius was not apologizing, there must be another word for it. ". . .we take the case as we find it," was certainly apologetic. To state that other witnesses will be presented who are above the attacks available to Matthews or Lusk seemed to be indeed apologetic. Even the most novice courtroom fan wondered why the statement of the trio's prior perjuries was not amended with a statement like, "But their perjuries were not always voluntary. They were urged to lie. They were instructed to lie. They were encouraged to commit perjury. All by the same man who sits here now as the defendant in this case. The man who the government now charges was as much a perjurer as any of these. . . ." Yet, that form of reasoning was not presented, and the courtroom sat in silence, believing that the apology that was not to be offered had in fact been presented with a humility not usually in keeping with the power of the U.S. Government.

In all fairness, Cornelius was not himself on this day. His voice was failing and Judge Justice intervened at one point during the opening statement asking if the attorney wanted a recess to regain his ability to speak. It was obvious that the prosecution's opening argument was rather brief, and it could well be that Cornelius' condition was the reason. The affliction was so severe at one point, in fact, that Cornelius admitted to the court that he may have to ask one of his associates to finish his opening statements for him.

Creig Matthews approached the witness stand in his three-piece suit, bearing the image unlike the undercover narc dealing in gutter-level activities. His face was grim, but hardened with a new resolve. He settled into the chair after responding to the oath and waited for the questions of Bob Wortham, the U.S. Attorney.

The examination began slowly with a reconstruction of Creig's deal with the government. Wortham wanted to be certain that the jury

understood that the immunities given to Matthews was not a blanket agreement, that the man was still subject to prosecution on perjury charges if he should lie to them and it could be proven. The attorney was cautious to inform the jurors that Matthews had entered a guilty plea to charges akin to those facing Hardy, and that his cooperation was based on other factors beyond the protective shield of the immunity agreement.

The process was slow and arduous with Houston issuing frequent objections. Matthews had been contacted by the FBI in San Antonio. He had finally agreed to tell the truth and had appeared before U.S. Attorney John Hannah. A long 20-day session of briefing with FBI agents then took place before Matthews was to enter a guilty plea to his charges and appear before the Federal grand jury. The outline of events was carefully portrayed, and the jury was to understand the chronology of events that had brought the former narc before them.

Slowly, Wortham unraveled the intrigues of Matthews' past activities. As Wortham had related, Matthews had admitted to federal agents a multitude of sins, and now they were recounted before the jury, as if to verify that the narc was willing to confess all now.

Q: Would you tell this jury the items that you informed the FBI about?

A: I informed the FBI of the burglary of a clinic, of the arson of a car, of drug usage.

(Houston objected, claiming that the prosecution was inviting hearsay testimony. Justice overruled the objection.)

Q: Did you inform the FBI you were using drugs with other defendants?

A: Yes, I did.

Q: Did you inform the FBI you were skimming drugs?

A: Yes, I did.

Q: Would you inform this jury panel what skimming drugs means?

A: When you buy drugs from a defendant, any amount, you take some of the drug out, you put a cut or a substitute back in.

Q: Did you reduce the amounts of drugs that you submitted to the lab?

A: Yes, I did.

Q: At times did you actually take evidence out of the vault?

A: Yes, I did.

Q: What evidence?

A: I took drugs out of the evidence vault. I also took money out of the evidence vault.¹⁵⁸

Q: At times did your expense account - was it always correct?

A: No, sir. It wasn't.

Q: When your expense account was incorrect, why was it incorrect?

A: Because I didn't handle the money correctly.

Q: Did you make a fictitious case on Kenneth Bora?

A: Yes, I did.

Q: What's that called in street lingo?

A: That's a stash case.

JUDGE JUSTICE: Stash?

A: Yes, sir.

Q: Did you buy cocaine from Kenneth Andrew Bora?

A: No, I did not.¹⁵⁹

Systematically, Matthews recounted his sins for the benefit of the jury. The intent was to prove the totality to which the former narc would now be humbled. The arrogance was gone. The superior attitude of a narc insulated by the very nature of his profession had disappeared. Creig Matthews was now submissive, and the scope of his confessions would, Wortham hoped, impress the jury with the reversal of the man who had been so widely publicized as the principal figure in Smith County's drug bust.

158 During the period when Mike Lusk was falling into disfavor with the department's administration, he was accused of stealing \$1,940.00 from the vice division's evidence vault. He was forced to take polygraph tests to prove his innocence and was eventually cleared of the charge. During this testimony, it was learned what actually had happened to the funds.

159 United States of America vs. Willie Hardy, TY-81-43-CR, pg. 23-25, Vol. T-1.

Within minutes, Wortham was inquiring into the hiring processes that had brought Matthews into the fold of the Tyler Police Department.

Q: Did you go in for a job interview?

A: Yes, I did.

Q: Who did you talk with?

A: The Review Board, I believe, was headed by Assistant Chief Willie Hardy at the time.

In his opening statement to the jury, Rex Houston had stated, "Then he (Matthews) goes before a three-man reviewing board of skilled and competent police officers, not Mr. Hardy, other people. They pass him." The point Houston wanted to make was that Hardy had played no role in the hiring of Matthews, not even an appearance on the review board.

Yet, Matthews was to recall that Hardy was in charge of that board, and former Civil Service Director, Carolyn Nash, was to reveal that she had attended this session where Matthews was interviewed, and Willie Hardy was a fixture upon that panel, with extremely rare absences. That the prosecution should not have known of this fact demonstrates their levels of preparation for the trial, and this point alone could have served to diminish the idea that Hardy had been a completely innocent bystander to the hiring processes of Creig Matthews.

The examination of Matthews was lengthy, dealing with the subjects of his revelation to Hardy that he was addicted to drugs, the suggestions he alleged came from Hardy to frame Bora and others, the incidents of turning Tim McGuire into an informant and Hardy informing the young man that he would see to it that he received a 25 year sentence with 10 years of it spent in solitary confinement. The response to Wortham's questions created the image of Hardy the manipulator. Hardy the conspirator. Hardy the exactor of vengeance.

Still, the examination had not been intense. The hammer blows of a skilled prosecutor remained strangely silent. The information related by Matthews had been interesting, but lacked the drama, the thrust of those that would haunt the mind of a juror. It was more of a recitation than an examination and the flair for the jabs and parry of a dynamic attorney was obviously lacking.

Before it seems that the prosecution team is being unfairly analyzed herein, there are factors to be considered when one weighs their per-

formance. Primary among these factors is the inherent fact that federal prosecutors have a deep dislike for witnesses appearing under the protective cloak of immunity - those people who could (or should) be appearing as defendants far more than they are as witnesses. The experience leaves a bad taste in the mouths of federal attorneys and was echoed in Cornelius' vague comment that ". . . we take the case as we get it." In this instance, the government took a case involving admitted perjurers and arsonists and magically hoped to make them appear credible. It was the purse-out-of-a-pig's-ear syndrome.

At the same time, the campaign by Hardy's fund-raising corps had portrayed the prosecutors as invaders into the realm of the county, federal intervention into the affairs of a region given to a pride of autonomy. It was Big Brother vs. one of their own kind. None of the attorneys liked or appreciated the image, but swallowed it like a bitter pill.

Finally, there were strange factors that influenced, no doubt, their zeal to represent the government in this matter. Former Assistant District Attorney of Smith County, Chris Harrison, had now joined the ranks of the U.S. Attorney's staff, and from him tales came forth of Ken Bora's past and the alleged range of his involvement in criminal activities. Harrison had revealed on many occasions that he felt Bora was indeed a crime figure, and now the violation of Bora's civil rights seemed to be a principle some found difficult to defend.

The prosecutorial team found little incentive in what they did. They had inadequate tools with which to work, and their nature of their witnesses was such that the entire experience was frustrating and discouraging.

For Rex Houston, however, the case represented a matter of quite a different color. He was the white knight, the guardian of the area's right to be free from federal invasion. He was defending Willie Hardy, yes, but there were other principles involved, and many people supported him for these causes far more than they did to seek relief for Hardy.

With his cross examination, Houston immediately began to attack Matthews' testimony offered to Wortham. At times, the attack was subtle but vicious.

Q: You've got an awfully good vocabulary, haven't you?

A: I hope so.

Q: Well, you've called various people in the police department paranoid and everything else, haven't you? You know how to toss those terms around.

A: I know how to use the terms, yes, sir.

Q: You know what a pathological liar is, don't you?

A: Yes, sir.

Q: You've used that term, haven't you?

A: I can't recall using that.

Q: You can't recall using that term. Are you one yourself?

A: I don't think so.¹⁶⁰

Matthews may not have believed himself to be a pathological liar, but the onslaught of Rex Houston was soon to create doubts in the minds of the jurors. The attack was merciless and encompassed the former narc's long succession of lies to a multitude of people.

Q: Well, how about in July of 1979 before the Johnny Allen Green trial, both times when you talked to him (Hardy), you say, in his office and at his home?

A: I talked to him in his office before the Johnny Allen Green trial in reference to getting a tattoo to cover tracks on my arm.

Q: Is that when you told us two different stories about that he wanted you to go to Houston?

A: That's when we discussed Houston.

Q: But you told the Grand Jury that he didn't even know about it.

A: About the tracks on my arm?

Q: Yes, sir, that he didn't even know in advance you were going to do it.

A: Is that what I testified before the Grand Jury?

Q: Yes.

A: Okay.

Q: Well, which time are we to believe you, today or then?

A: I'm telling the truth today, sir.

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Q: You've guaranteed these people you wouldn't commit perjury.
When are they to decide that you were telling the truth, before the Grand Jury or here?

MR. WORTHAM: Your Honor, I object. The question is completely and totally improper.

MR. HOUSTON: He went into what his agreement....

THE COURT: This is standard cross-examination. I overrule the objection. Go ahead.

Q: Which time are they to believe. Under your plea agreement with the United States Government, which time are they to accept? Is the truth now, what you said here today, or what you said before the Grand Jury?

MR. WORTHAM: Your Honor, I object. It calls for speculation. He can't know what I'm thinking. No one can.

MR. HOUSTON: That was my objection this morning, Your Honor.

THE COURT: I sustain the objection.

MR. HOUSTON: Okay.

Q: On Page 15 of your Grand Jury testimony, let's see what you actually said under oath about when you had the conversation with Chief Hardy that is now the basis of this indictment.

"Did you have a conversation with Mr. Hardy in July of 1979?"

"Yes, sir. One of them would have been previous to the Johnny Allen Green trial."

"Was this conversation in his office?"

"Yes, one occurred in his office and one occurred in his home."

"Did you indicate to Mr. Hardy at that time that you were still taking drugs?"

"Yes."

"And what response did he make?"

Tell the jury what your answer was.

A: "None."

Q: None. You were a police officer for the City of Tyler, draw-

ing a salary, talking to the Chief of Police and you tell him you're taking drugs and you want us to believe that he just sat there and made no response at all?

A: None that I can recall, no sir.

Q: He just sat there and looked at you. What did he do, grab you on the arm again and say, "Let me see those needle marks?"

REPORTER'S NOTE: There was no audible response from the witness.

Q: You just don't know, do you, Mr. Matthews?

A: Is that a question? I'm sorry.

Q: Sir?

A: Was that a question or a statement? I'm sorry.

Q: Yes, please treat it as a question.

A: Did he grab my arms in July and say he wanted to see the track marks?

Q: Uh huh.

A: No, sir.

Q: Now, everybody you made cases on weren't falsified about, were they?

A: No, sir.

Q: You made nearly 100 percent of cases against people who had actually sold drugs to you, didn't you?

A: I believe all but eighteen of the cases.

Q: Well, there were only four that you could name this morning. There were only four people, including Bora, that you now say you made a case on or put a stash on that you had not made a good case on. Isn't that true?

A: I believe there were six. I can't name them all without looking at a list.

Q: Well, you named four. If you want to change it to six, that's fine, but I mean, you couldn't name but four this morning. Isn't that true?

MR WORTHAM: He's arguing with the witness. That's the same thing he said this morning.

THE COURT: I sustain the objection.

Q: Well, what I'm getting at and I don't mean to argue with you, you said there were six and they asked you to name them and you could just name four. Now, if it's six, it's fine and dandy, but there were either four or six people that you made a case on where you said you put a stash on them and you had no other good case on them. Isn't that true?

A: I believe there are six, sir, but I cannot name them all.

Q: Bora was one of those.

A: Yes, sir, he was.

Q: Now, out of the people that you did make, how many were there, 97?

A: I believe 121.

Q: One hundred and twenty-one? All right. So over 100 were good cases.

A: Yes, sir.

Q: The McGill case that you now say - how many cases did you make on him, incidentally?

A: Several cases, sir.

Q: Several?

A: Four or five, possibly six.

Q: And you say just one of them was a stash case?

A: Yes, sir.

Q: You convicted him and you said that you were pleased to death with it because this McGill fellow - now, he wasn't some innocent little high school lamb, was he?

A: No, sir, he wasn't.

MR. WORTHAM: We object. The character of McGill has nothing to do with this trial. It has no relevancy whatsoever.

THE COURT: What is the relevance, Counsel?

MR. HOUSTON: Your Honor, he closed his examination this morning with, "Are you sorry you made cases on these innocent people? Are you sorry that you've harmed so many people?"

MR. WORTHAM: Your Honor....

MR. HOUSTON: Now, this is the way....

THE COURT: I don't find any particular relevance. I sustain

the objection. Go ahead.

MR WORTHAM: Thank you.

Q: Well, of the people you did make and talking specifically about the drug problem in Tyler, you will agree with me that you found a serious drug problem here, won't you?

A: Yes, sir.

Q: Are you still close enough to it to know whether there's still a serious drug problem or not?

A: No, sir.

Q: You just don't know or you're saying there is not or you don't know?

A: I'm not close enough to it to know.¹⁶¹

Houston performed his cross-examination with the skill of a surgeon. It was to be later recounted by those knowledgeable in courtroom procedures that Houston simply "out-lawyered" his opponents. A review of the transcripts of the case indicates that this is truly an accurate assessment.

There exists the temptation to produce here portions of the entire transcript that testify to the skill of Houston and the failures of the prosecutorial to attack Houston's thrusts into the credibility of their witnesses.

It was alarming to many spectators that the prosecution called forth so few witnesses to support the testimony of Kim, Creig and Mike Lusk. A.D. Etheridge and Lloyd Waterman were called, but there certainly reigned the "sour grapes" element to be exposed by the crafty Houston. These men had left the department with ill feelings toward its administration. Waterman had attempted to gain re-employment and had been refused. Yes, there was the spectre of sour grapes, and Houston made the most of its exposure.

The Matthews couple and Lusk represented those self-avowed perjurers that Houston had characterized in his opening statements. Only by substantiating their testimony could the federal attorneys hope to make the believable to the jury. They called forth Ricky Silvertooth, the former narc who was a friend of the Matthews'.

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If Silvertooth had been an effective narc, he certainly lacked the cunning on the witness stand that was the hallmark of Kim and Creig's brief careers. Fragments of Silvertooth's testimony reveals how Houston was able to disrobe his deceptions:

Q: You said you're medically retired. Would you tell the jury the background of that?

A: Yes. Approximately for nine years I worked for the Department of Public Safety, five years of that as highway patrolman, a little over three.... nearly four years.... narcotics, and during an undercover investigation I was shot three times, once in the hand, once in the back and once in the head, resulting in loss of eyesight.¹⁶²

Later, Wortham was to question Silvertooth about Creig's condition during the period Creig claimed to be heavily addicted to narcotics.

Q: When you went by to see Creig, what did he look like?

A: Well, from the beginning of the investigation he had lost quite a bit of weight from that time, needed sleep, very poor physical condition, dressed very slouchy, had several of the symptoms that a drug fiend or dope fiend would have.

Q: What would those symptoms be?

A: Unable to carry on a decent conversation, either eyes be dilated or contracted, just according to what drug he was on, just unable to talk sensible at all.¹⁶³

Later still, Houston was to pursue a line of questioning that he hoped would prove that Silvertooth was aware of the charges of drug usage being leveled at Matthews.

Q: Didn't you read the newspapers?

A: No, sir, I can't read because of my eyesight.¹⁶⁴

Incredibly, the man who couldn't even read a newspaper because of

162 United States of America vs. Willie Hardy, TY-81-43-CR, pg. 4, Vol. T-5.

163 United States of America vs. Willie Hardy, TY-81-43-CR, pg. 9-10, Vol. T-5.

164 Ibid, pg. 17.

the diminished quality of his eyesight had testified earlier that he had noticed the dilation and contractions of Matthews' eyes! The wily Houston did not attack the horrendous contradiction, but left it to the wisdom of the jury to detect.

Analysts of the case were later to note that no less than fifteen witnesses could have been called to support the testimony of the Matthews', yet, the government had produced an anemic gathering of persons with backgrounds subject to Houston's attack. It was incredible to most knowledgeable spectators.

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On February 22, 1982, Willie Hardy took the stand. A lengthy examination of Hardy's background, his career with the department, his service experiences, his education and family background, were all dealt with in glowing terms by Houston. Systematically, he then launched into a review of the charges existing against Hardy.

Q: All right. Now, there has been some talk here, Chief Hardy, about a hit list that was given Creig Matthews. Was there any such thing as a hit list given to him?

A: No, there wasn't.

Q: Do you deny that?

A: Certainly.

Within minutes, Houston was to elaborate on the subject of the hit list.

Q: Now, there's been specific mention here made with reference to you having a hit list, that somebody by the name of Barry Smith was on it. I want to specifically ask you about that. Did you have Barry Smith on any hit list?

A: No, I didn't.

Q: Did you even know Barry Smith until somebody told you about him?

A: I did not know him, no.

Q: Who told you about him?

A: Tim McGuire.

Q: All right. And did you have a hit list with somebody named Royce Wisenbaker on it, Royce Wisenbaker, Jr.?

A: No, I didn't.

Q: Did you even know him?

A: I didn't know the junior. I was aware of the father.

Q: All right. Did you put Royce Wisenbaker, Jr., on any hit list?

A: No, I didn't.

Q: Who gave you his name?

A: Either Tim McGuire or Creig Matthews.

Q: The cases that they were talking about earlier with reference to those people, did somebody in the department work on cases later on while Creig Matthews was working under cover? Did anybody work on cases against those people we've just talked about?

MR. BELL: Objection, Your Honor.

THE COURT: What is your objection?

MR BELL: I don't understand the relevance of that.

THE COURT: Would you repeat your question, Counsel?

Q: Did somebody subsequently work on cases against Barry Smith and Royce Wisenbaker, Jr.?

THE COURT: I overrule the objection.

A: Yes, they did.

Q: Why?

A: Because they were dealing drugs.

Q: Did they make cases against them?

A: Yes, they did.

Q: The Royce Wisenbaker, Jr., that you were asked about, was a case made on him?

A: Yes, it was.

Q: Did he enter any type of plea to it?

MR. BELL: Objection, Your Honor. It's irrelevant.

THE COURT: I sustain the objection.

Q: The other one, I believe, that was mentioned earlier about

being on a hit list was Paul Woodward. Do you know who he is?

A: Yes, I do.

Q: Did you have him on a hit list?

A: No, I didn't.

Q: Would you explain the background of him and why cases were made against him?

A: In the early 70's a DPS undercover agent made some undercover buys on Mr. Woodward and that's how I became aware of him.

Q: Was it your knowledge or at least Creig Matthews' knowledge that he was still dealing here in Tyler?

MR BELL: That's leading, Your Honor.

THE COURT: I sustain the objection to the leading question.

Q: Well, did you have any information with reference to his operations here in Tyler?

A: Yes, I did.

Q: Tell us what the information was and what was done about it?

A: The information was that he was an active drug dealer and the instructions given to the undercover agents was to become acquainted with him, find out if he was dealing drugs, if he was dealing drugs, make a case on him if you can.

Q: Did that information prove true?

A: We never did make a case on Woodward.¹⁶⁵

In short, the testimony of Willie Hardy was one of denial. Houston marched through the counts of the indictment, specifying each one for his client's response:

Q: All right. Now, Chief Hardy, with reference to some specific indictment allegations, I want you to listen to me and let me ask you some questions. Number one, did you form a conspiracy with Creig Matthews?

¹⁶⁵ United States of America vs. Willie Hardy, TY-81-43-CR, pg. 31-34, Vol. T-8.

A: No, I didn't.

Q: Did you form a conspiracy with Kim Matthews or Kim Ramsey?

A: No.

Q: Did you form a conspiracy with Mike Lusk?

A: No.

Q: Did you join any conspiracy knowingly that they had formed?

A: No, I didn't.

Q: Have you ever knowingly covered up any drug use of Creig Matthews?

A: No, I haven't.

Q: Did you know that he was addicted or strung out on drugs?

A: No, I don't.

Q: Do you even know that he was ever addicted or strung out on drugs?

A: No, I really don't.

Q: Do you believe, now believe, from everything you know.... do you have a belief whether he was or was not ever strung out on drugs?

A: I do.

Q: What is that belief under oath here for this jury, please?

A: I still don't believe he was strung out on drugs.

Q: Could he have possibly performed his duties as a police officer that he was required to do as he had been?

A: I don't believe he could have.

Q: Did you falsify or perjure yourself in the Johnny Allen Green trial?

A: No, I didn't.

Q: Did you falsify or perjure yourself in the Bora habeas corpus hearing?

A: No, I didn't.

Q: Are you guilty of any charge made against you in this indictment?

A: No, I'm not.¹⁶⁶

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By direct assault and innuendo, Houston had woven his tapestry of defense and Hardy now appeared as the knowledgeable, but victimized professional lawman. His background had been made to appear immaculate, and his demeanor on the stand had been a convincing one of naive innocence. Whether it was a true portrayal or an extension of his guiles was left to the speculation of those viewing the proceedings. Many now believed that the true conspiracy had been created to discredit Chief Hardy, while others held firm to the belief that the chief had been a participant in the overall conspiracy and was now presenting himself on the stand with the same, deceptive ease as was common to those within his profession.

With the cross examination, Daniel L Bell, II, launched into the heart of the issues, not pausing to build a foundation as had Houston. Within minutes, he was addressing the issue of the alleged hit list.

Q: Now, when Creig Matthews came on to work for the Tyler Police Department, you were very concerned with getting Mr. Bora, developing a case on him. Is that right?

A: No, sir, it's not.

Q: That's not right?

A: Not in the way you're putting it, no.

Q: Well, how would you put it?

A: He was one of several persons who was reputed to be drug dealers in Tyler, Texas, and as a result of that we were concerned about he and all the other drug dealers.

Q: And you were particularly concerned with him. Is that right?

A: You're putting more emphasis on it than I would.

Q: Well, I'm asking you if. ... well, let me ask you this.... at the time Creig Matthews came on board with the Tyler Police Department, Ken Bora was a primary target of the Vice Division. Is that right?

A: I wouldn't consider him a primary target. As I told you earlier, he was one of several people who had been reported to us to be a drug dealer.

Q: Did he ever become a primary target?

A: Not in my opinion, no. He was one of many.

Q: Okay. Your testimony to this jury is at no time did Ken Bora

ever become a primary target of the Vice Division?

A: It's a play on words. It depends on what you call a primary target. It depends on what you call a primary target. He's one of many persons who was dealing drugs that we were concerned about.

Q: He was one of the ones you were most concerned about. Isn't that right?

A: I think I've answered that.

Q: Would you answer it?

A: He was one of many that I was concerned about.

Q: All right. So then, he was not one of the ones you were most concerned about. Is that your testimony?

A: I did not have a prioritized list where I gave each a score and put one on top of the list, if that's what you're asking.

Q: No, what I'm asking is would you say one way or the other whether or not Ken Bora was one of the targets that you were most concerned about?

A: If you're speaking of most concerned as opposed to least concerned, yes, in that framework.

Q: I'm afraid I didn't follow what you meant there. Was the Vice Division was not concerned with or not?

A: He was in a group of several persons that we were concerned about.

Q: Well, is he one of the ones you were most concerned with or not?

A: He would have been in the group of the persons we were most concerned about.

Q: He was in a group of the persons you were most concerned with. Is that right?

A: That was my statement, yes.

Q: How many others comprised that group?

A: Several persons.

Q: Who were they?

MR HOUSTON: Your Honor, so I will know how the record is going to be construed, it's my understanding I have been stopped from asking any questions about Bora's character

and his background and what they were. Now I make that observation and this objection. This is the very thing counsel is asking about now.

THE COURT: Counsel, I will make the ruling when the time comes.

MR. HOUSTON: I make the objection now then, Your Honor, that it's not germane to the direct examination and the matters that I have been prohibited from going into. That's my objection.

THE COURT: I overrule the objection.

MR HOUSTON: All right.

Q: Who were the other targets, Mr. Hardy?

A: I think I've testified that there were no other targets.

Q: I thought you just testified that Mr. Bora was one of the people in the group that you were most concerned with. Who were the others?

A: Some of the other people that were active drug dealers at that time were Paul Woodward, Steve McGill.

Q: Any others?

A: Frank Hillin.

Q: Any others?

A: There probably were. I don't recall in that particular time frame now who would have fit into that time frame.

Q: All right. So when Creig Matthews came on board, your testimony is that this group of primary targets included Ken Bora, Frank Hillin, Paul Woodward and Steve McGill. Is that right?

A: You're putting words in my mouth. I haven't named a primary target.

Q: Well, who were the primary targets?

THE COURT: Well, let's don't go over this. He has said that there were certain people that he was most concerned with and he's given you the names. He hasn't used the word "target," so let's don't use it any more.¹⁶⁷

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The plodding, almost boring effect of Bell's cross examination did little to influence a jury of Hardy's guilt. In contrast to Houston's flamboyant approach, the prosecutor appeared dull and unstimulating. It was difficult for knowledgeable spectators to realize that Bell was the expert sent from the hallowed halls of Washington to assist in the case against Hardy. They had expected more, and had a right to.

At times, it appeared that Bell was approaching a topic of significance, only to have him back away and permit the matter to drop. In some instances, the point being made was of extreme importance, but the federal prosecutor seemed to suddenly become disenchanted with the pursuit and allow the issue to rest.

Q: So even though Mike Lusk was assigned to supervise Creig Matthews, Creig was reporting directly to you on frequent occasions.

A: If you're reporting as in me supervising him, you're taking that out of context, no. I visited with Creig frequently, many times to visit for the sake of visiting with him.

Q: Well, this was to discuss police business, wasn't it?

A: In our visits, some of the police business would come up, yes. I was not supervising him directly. Mike Lusk was his supervisor.

Q: He was undercover at the time. Is that right?

A: That's correct.

Q: And you would know it would be bad business as the Chief of Police to risk breaking his cover by visiting with him too often. Isn't that right?

A: No.

Q: That wouldn't worry you that you might call some attention to his being an undercover agent?

A: I don't understand what you're trying to say.

Q: You saw him two to seven times a week. Is that right?

A: That's correct.

Q: All right. Now, you saw him to discuss police business.

A: I didn't see him specifically for that purpose. I visited with Creig frequently and in the conversation police business did come up from time to time, yes.

Q: And Creig was undercover at that time?

A: Yes, that's correct.

Q: And he was concerned and you were concerned that his cover not be broken. Isn't that right?

A: Well, yes, that's an ongoing concern with an undercover operation, sure.

Q: So the purpose in your visiting him wasn't just to have social visits, was it?

A: One of the purposes in visiting Creig was the fact that he was spending 24 hours a day with a drug subculture and visiting him helped in a sense to give him therapy from that group of people he was living with day in and day out.

Q: You visited Creig Matthews two to seven times a week while he was undercover to give him therapy.

A: I said that was one of the reasons.

Q: And another reason was to discuss police business.

A: We did discuss police business on some occasions, yes.

Q: All right. Now, Creig had an overdose. Is that right?¹⁶⁸

Mysteriously, Bell seemed more intent in showing that police business had been discussed than to deal with the incredible suggestion that neither Creig nor the Chief felt there was any danger in their frequent meetings. A narc undercover certainly wouldn't want to be seen in the presence of the Chief of Police, but Bell saw fit to dismiss this topic and move on to Creig's reported overdose. The approach was mystifying and caused many to feel that the prosecution's approach lacked substantial quality. In earlier testimony, Matthews had revealed that Hardy would come to Creig's apartment, and Bell saw fit to permit this issue to slip through his hands. That the Chief of Police would find a need to have social visits with an undercover agent at his apartment is a breach of the most illogical imagination. Yet, Bell permitted Hardy to persist in his story and failed miserably to make a real issue of it.

Incredibly, it appeared that whenever Hardy gave a statement of denial, Bell was willing to accept it with his tendency to move on to

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another subject. A prime example was in dealing with the allegation by Mike Lusk that answers had been provided by Hardy on a promotion examination.

Q: And when Mike Lusk went into the Vice Division, he was about 24 or 25 years of age. Is that right?

A: That sounds about right. I don't know exactly.

Q: And you recommended his promotion to Sergeant.

A: He made the highest score on the test and there was no reason at that time for me not to recommend him. Yes, I recommended him.

Q: Did you give him the answers to the test?

A: No, I didn't have the answers to the test.

Q: Now, as part of your practice in running the Vice Division, did you routinely tape your conversations?¹⁶⁹

Again, the issue was dropped when it could have been developed into yet another major issue. It was true that Hardy did not have the answers to the test, but in an interview with this author, former Civil Service Director, Carolyn Nash indicated that she would often inform Hardy of the specific areas within the test that she would pursue. She would not provide specific questions, but would outline the general subject matter the test would cover. This is not unusual or illegal. It was simply a practice that had developed over the years. With that information, Hardy could have done the very things Lusk had alleged. All Lusk had stated, after all, was that Hardy would tell him not to waste his time studying particular sections of the workbook. Still, Bell did not pursue the subject and permitted it to drop with Hardy's denial.

If the criticism of Bell's work seems to be extensive, it is intended to be. Daniel Bell is a competent attorney, heralded by those who know him within the Justice Department of Washington, D.C. It is obvious, by an analysis of the transcripts of the Hardy trial that Mr. Bell did not live up to his press clippings and did not credit himself with his Tyler appearance. Why this should have been has been subject of many points of speculation.

In addition, not all of the pursuits of the prosecutorial team was overly

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credible. At one point, Rex Houston made it evident that he intended to call Dr. I. Richard Toranto as an expert witness. Toranto had treated Matthews in Dallas and would testify that he had detected no evidence that the narc had been addicted to drugs. This could be affirmed by Matthews' reaction to drugs and the apparent absence of puncture wounds on his arms. Because of the doctor's busy schedule, it was agreed that his testimony would be presented to the court via video tape, since the physician could not make a personal appearance before the court.

The federal prosecutors dispatched Bill Cornelius to attend the examination of Toranto who offered his credentials as being, "... I am a member of the Texas Society of Plastic Surgeons, of the American Medical Association, Dallas County Medical Society, American Society of Plastic and Reconstructive Surgery, and several others."¹⁷⁰

Toranto was permitted to give evidence about Matthews' drug usage even though his field of specialty nowhere included an expertise in such areas. He was not in the field of forensics or toxicology and could have been attacked at any point for his obvious anemia in truly being an expert in such questions. Still, the prosecution not only permitted Toranto's testimony to remain unchallenged, but participated in the examination and cross-examination! Many attorneys have reasoned since that time that it would have been better strategy to permit Houston to offer the evidence of Toranto's statement and to object to it on the basis of Toranto not truly being an expert witness. To have been so much in objection to the testimony that they would not even attend the examination would have demonstrated to the jury the extent of their opposition to the doctor's true credentials as an expert.

With the passing of each day, the spectators waited for the government to drop their bombshell. It was well known that federal prosecutors never pursue a case unless they really have the evidence to support it. Daily, the gathering waited for the disclosure of such evidence. It never came.

As the arguments were winding to a close, it was one elderly spectator who grumbled in the halls of the federal building. He displayed his disgust

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without an attempt to conceal it, as he shot a glance toward his companion.

"Well, whadya' think?" asked the companion.

"Well.... let's put it this way. If this had been a boxing match, it would be taken before the commissioner."

It was 109th issue of the 52nd volume of the Tyler Morning Telegraph. The date read, February 24, 1982. The headlines glared garishly, "JURY FINDS HARDY INNOCENT."

After two and one-half hours of deliberation, the jury of Hardy's peers had delivered their findings at 5:55 p.m., informing Judge William Wayne Justice that they found the defendant not guilty on both counts of the indictment.

Before offering their verdict, the jury had entered into an interesting agreement wherein none would discuss their decisions with anyone. The foreman of the jury would comment only, "The verdict speaks for itself." Later, however, one juror would break the agreement, bitterly stating, "We did not find Hardy innocent as the newspaper said. We found him not guilty. Some people don't recognize the difference. Our findings were that the prosecution hadn't offered sufficient evidence to prove his guilt, but it didn't say that the guilt didn't exist. It just wasn't proven satisfactorily. Finding a man not guilty and finding him innocent are totally different things."

With his sobbing wife in his arms, Hardy smiled with the knowledge that he had been vindicated. In jubilation, he thanked Rex Houston and offered terse comments to the press that gathered quickly about him.

"I think over all the jurors could see through the entire thing as a put up job," he stated.

For Creig Matthews and Kim Matthews, the verdict was a bitter pill. Soon, they would face sentencing for charges similar to those that had confronted Hardy. It was now obvious that neither of the Matthews' would ever again be believed in a court of law. The impeachable narcs had reached the apex and depths of their careers in Smith County. The Officer of the Year and Rookie of the Year had been refuted by the jury,

and in the remnants of the decision were fragments of the narc's tainted pasts. Now, they would shake their heads in confusion.

"When we lied on the witness stand," stated Matthews, "everyone believed us. Now, when we tell the truth at last, no one would believe us."

It was "the little boy who cried wolf" syndrome. Creig and Kim had lied for so long, there was no longer a reason to believe them, regardless of the stakes. Never again would they be able to take the stand to testify against a drug defendant, no matter how valid the case may have been. Those who had vouched, under oath, for their veracity and credibility now found their own credibility in doubt. The social wounds would heal into ugly scars. The damage to youthful lives would remain unmended throughout all the subsequent years. The terror they had created would haunt their victims through countless nightmares and the awakening to wonder if reality was truly the living of another day. Their names would be remembered with the same bitterness as the despots of history, for they had formed a page of Smith County history that betold of the nature of its justice.

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